

AT AN ADJOURNED MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTGOMERY, VIRGINIA HELD ON THE 25<sup>th</sup> DAY OF OCTOBER 2004, AT 6:00 P.M. IN THE BOARD CHAMBERS, MONTGOMERY COUNTY GOVERNMENT CENTER, 755 ROANOKE STREET, CHRISTIANSBURG, VIRGINIA:

PRESENT:	James D. Politis	-Chair
	Annette S. Perkins (arrived 6:30 p.m.)	-Vice Chair
	Mary W. Biggs (arrived 6:05 p.m.)	-Supervisors
	Gary D. Creed	
	Doug Marrs	
	John A. Muffo	
	Steve L. Spradlin (arrived 6:05 p.m.)	
	B. Clayton Goodman, III	-County Administrator
	L. Carol Edmonds	-Assistant County Administrator
	Martin M. McMahon	-County Attorney
	T.C. Powers	-Planning Director
	Robert C. Parker	-Public Information Officer
	Vickie L. Swinney	-Secretary, Board of Supervisors

### **CALL TO ORDER**

The Chair called the meeting to order.

### **INTO CLOSED MEETING**

On a motion by John A. Muffo, seconded by Gary D. Creed and carried unanimously,

BE IT RESOLVED, The Board of Supervisors hereby enters into Closed Meeting for the purpose of discussing the following:

Section 2.2-3711 (5)	Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business= or industry=s interest in locating or expanding its facilities in the community.
----------------------	--

1. Prospective New Business or Industry

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Doug Marrs	None	Annette S. Perkins
Gary D. Creed		Mary W. Biggs
John A. Muffo		Steve L. Spradlin
James D. Politis		

### **OUT OF CLOSED MEETING**

On a motion by Mary W. Biggs, seconded by John A. Muffo and carried unanimously,

BE IT RESOLVED, The Board of Supervisors ends their Closed Meeting to return to Regular Session.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
Mary W. Biggs	None
Doug Marrs	
Steve L. Spradlin	
Gary D. Creed	
John A. Muffo	
Annette S. Perkins	
James D. Politis	

### **CERTIFICATION OF CLOSED MEETING**

On a motion by Mary W. Biggs, seconded by Gary D. Creed and carried unanimously,

WHEREAS, The Board of Supervisors of Montgomery County has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such Closed Meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion conveying the closed meeting were heard, discussed or considered by the Board.

## VOTE

### AYES

John A. Muffo

Gary D. Creed

Annette S. Perkins (Supervisor Perkins certifies the closed meeting for time she was present)

Steve L. Spradlin

Doug Marrs

Mary W. Biggs

James D. Politis

### NAYS

None

### ABSENT DURING VOTE

None

### ABSENT DURING MEETING

None

## PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

## MOMENT OF SILENCE – REMEMBRANCE OF KATHRYN “KITTY” BRENNAN

The Board of Supervisors observed a moment of silence in remembrance of Kathryn “Kitty” Brennan, a long-time school teacher, Planning Commission member, and community activist who died in an automobile accident on October 14, 2004.

## PUBLIC HEARINGS

Special Use Permit - Alfred and Sylvia C. Rader (Agent: Carol St. Clair)

**Alfred R. & Sylvia C. Rader (Agent: Carol St.Clair) requests a Special Use Permit, with possible conditions, on a 1.164 acre tract zoned Residential (R3) to allow the placement of a manufactured home, class A or B.** The property is located at 3825 Jacob Drive and is identified as Tax Parcel No. 83A-4-14 (Acct. ID #031280) in the Shawsville Magisterial District. The property currently lies in an area designated as Urban Expansion in the Comprehensive Plan.

The Planning Director provided a brief overview of the request. The applicant wishes to place a manufactured home on the property. The property is located in a subdivision zoned R-3, of which the majority of the homes are manufactured homes. At their October 13, 2004 meeting, the Planning Commission recommended approval to the Board of Supervisors to allow the placement of a manufactured home, class A or B.

There being no speakers, the public hearing was closed.

Special Use Permit - Carilion Health Corporation (Agent: Draper Aden Associates) - Withdrawn  
**Carilion Health Corporation (Agent: Draper Aden Associates) requests a Special Use Permit, with possible conditions, in Planned Unit Development-Commercial (PUD-COMM) to amend the Concept Development Plan to allow approximately 52,500 square feet of medical office buildings.** The property is located at 2900 Lamb Circle and is identified as Tax Parcel No. 104-A-26 (Acct. ID #009207) in the Riner Magisterial District. The property currently lies in an area designated as Planned Commercial in the Route 177 Overlay District of the Comprehensive Plan.

The Planning Director explained that the applicant wishes to withdraw the request in a letter dated October 19, 2004.

There being no speakers, the public hearing was closed.

Montgomery County Planning Commission - Zoning Ordinance  
**The Montgomery County Planning Commission requests an ordinance amending Chapter 10 entitled Zoning, Section 10-52(c) of the Code of the County of Montgomery, Virginia, amending the criminal violation provisions for failure to abate or remedy a violation of the zoning ordinance.**

The County Attorney explained the amendment to the Zoning Ordinance is due to recent changes to the State Code.

Bruce Oliver expressed concerns for protection of land, particularly steep mountainous slopes that are subject to erosion. He believes there should be a strict zoning policy in place for sections such as this.

There being no further speakers, the public hearing was closed.

Agricultural and Forestal District -5 Riner ( AFD) Addition  
**Addition of 31 acres owned by Jeff Armistead on Sidney Church Road (SR 606), Riner Magisterial District**

The Planning Director provided a brief overview of the request. The applicant wishes to place 31 acres on Sidney Church Road in the AFD program.

There being no speakers, the public hearing was closed.

American Electric Power (AEP) - Request for a Right-of-Way for Conveyance of Utilities Easement

**AEP requests a right-of-way for a utility easement across the new Christiansburg Middle School in order to extend electrical facilities underground to serve the proposed Harkrader Sports Complex.**

The County Administrator explained the Town of Christiansburg has submitted this request in order to extend electrical services to the new Harkrader Sports Complex. American Electric Power will need to cross over the new Christiansburg Middle School property in order to provide electrical services.

There being no speakers, the public hearing was closed.

**PUBLIC ADDRESS SESSION**

Bruce Oliver urged the Board to consider creating a specialized motor vehicle license plate recognizing the County's individual communities. He believes this could be a potential revenue source for the County.

There being no further speakers, the public address session was closed.

**OLD BUSINESS**

**ORD-FY-05-12  
AN ORDINANCE RENEWING  
AGRICULTURAL AND FORESTAL DISTRICT (AFD-3) – LITTLE RIVER  
WITHIN MONTGOMERY COUNTY, VIRGINIA**

On a motion by John A. Muffo, seconded by Steve L. Spradlin and carried unanimously,

WHEREAS, Balcor Corporation, River Haven Farms, Bernard J. Cox, Donald James Cox, Harry W. Groot, Charlie Henry Hall, ETAL, Drayton L. Mabry, Theodore C. Marshall, Roger Cecil Morris, Allen C. Phillips, William C. Phillips, Denny G. Wells, and Burman P. White, ETAL have filed an application for the renewal of AFD-3 on May 17, 2004, which Agricultural and Forestal District was created by an ordinance adopted on the 27<sup>th</sup> day of October, 1980 and previously renewed by ordinances adopted on October 12, 1987 and October 15, 1996; and

WHEREAS, The Planning Department held a public meeting on April 29, 2004; following commencement of the renewal process by resolution of the Board of Supervisors on March 22, 2004; and

WHEREAS, The applications were referred to the Agricultural and Forestal District Advisory Committee and said Committee has reviewed the application and reported its findings and recommendations on August 24, 2004; and

WHEREAS, The Planning Commission did publish notice of the pendency of the applications on June 23, 2004 in the New River Valley Current and the News Messenger, newspapers of general circulation within Montgomery County, Virginia; and

October 25, 2004

Page 5 of 77

WHEREAS, The Planning Commission held a public hearing on September 8, 2004; and

WHEREAS, The Planning Commission forwarded the applications with its findings and recommendation for approval to the Board of Supervisors on September 8, 2004, and;

WHEREAS, The Board of Supervisors after proper notice, held its public hearing on September 27, 2004.

NOW, THEREFORE, BE IT ORDAINED, By the Board of Supervisors of Montgomery County, Virginia, as follows:

- 1) That the conservation, protection and encouragement of the development and improvement of its agricultural and forestal land for the production of food and other agricultural and forestal products is vital to the public interest, and that the conservation and protection of these lands as a valued natural and ecological resource as well as economic and environment resource of major importance is also in the public interest.
- 2) That this Agricultural and Forestal District, AFD-3, has been reviewed and is hereby continued and renewed, term of eight years terminating on the 31<sup>st</sup> Day of December, 2012, in accordance with the provisions of Title 15.2, Chapter 36, Sections 15.2-4300 through 15.2-4314 Code of Virginia, 1950, as amended.
- 3) That said District as renewed shall consist of approximately 1,318 acres in the Riner Magisterial District of Montgomery County, and shall include the following parcels:

<b>Name</b>	<b>Tax Map #</b>	<b>Acreage</b>
Balcor Corporation	136-A-2	94.443
River Haven Farms	135-A-71, 72	179.96
Bernard J. Cox	142-A-19, 142-1-2	96.9
Donald James Cox	136-1-4	105.79
	143-1-9	5
	136-1-5	69.758
	142-2-10	15.689
	135-2-11	7.06
Harry W. Groot	135-1-1	12
	135-1-2	8.01
	135-1-3	11.5
	135-1-4	11.75
	135-1-A	30
	135-A-8	34.6
Charlie Henry Hall, ETAL	142-1-2	29.7
	142-1-A	15.1
Drayton L. Mabry	142-A-15	34.1
Theadore C. Marshall	126-A-53	106.3
Roger Cecil Morris	135-A-77	6.217
Allen C. Phillips	135-A-62	88.214
William C. Phillips	135-A-57	97.787
	135-A-57A	1.013

Denny G. Wells	135-A-65	15.161
	135-A-66	50.4
	135-A-69	0.8
Burman P. White, ETAL	135-A-45	134.8
	142-A-9	1.8
	142-A-17, 18	54
TOTAL		1317.8

- 4) That these parcels qualify for land use value assessment provided the parcels meet the criteria of Section 58.1-3230 and 58.1-3233 of the Code.
- 5) That the owners of land within said District shall not terminate the District except in accordance with Section 15.2-4314 of the Code.
- 6) That lawful termination of any owner's association of the District shall not serve to terminate the existence of the District but the District shall continue in effect until the review required by Section 15.2-4311 of the Code.
- 7) That all County ordinances and regulations shall be applicable within said District; provided, such ordinance and regulations are Agricultural and Forestal Districts Act. Further the Planning Commission is hereby advised that it is the intent of the Board of Supervisors that land use planning decisions or ordinances enacted to implement same shall take into account the special status of both land adjacent to said District and land lying within said District.
- 8) That an exception for secondary roads either within or along the boundary of said District is hereby created and consequently, there is hereby excepted from said District a strip of land extending twenty-five (25) feet on both sides of the center line of all existing secondary roads within or along the boundary of said District from this ordinance.
- 9) That the landowners of said District who do not already have either a conservation plan for agricultural and or a forestry management plan for forest lands shall apply to the appropriate agency for the preparation of such a plan within one year of the establishment of the district.

This ordinance shall take effect upon its adoption.

The vote on the foregoing ordinance was as follows:

<u>AYE</u>	<u>NAY</u>
Doug Marrs	None
Steve L. Spradlin	
Annette S. Perkins	
Gary D. Creed	
John A. Muffo	
Mary W. Biggs	
James D. Politis	

**ORD-FY-05-13**  
**AN ORDINANCE RENEWING**  
**AGRICULTURAL AND FORESTAL DISTRICT (AFD-4) SILVER LAKE ROAD**  
**WITHIN MONTGOMERY COUNTY, VIRGINIA**

On a motion by John A. Muffo, seconded by Steve L. Spradlin and carried unanimously,

WHEREAS, Charles B. Childress, William F. Chrisman, ETAL, Frances R. Crockett, Linda S. Crockett, D. Todd Linkous, Jr., Phillip E. Nolen, and Childress Farms Inc. have filed an application for the renewal of AFD-4 on May 17, 2004, which Agricultural and Forestal District was created by an ordinance adopted on the 27<sup>th</sup> day of October, 1980 and previously renewed by ordinances adopted on October 12, 1987 and October 15, 1996; and

WHEREAS, The Planning Department held a public meeting on April 29, 2004; following commencement of the renewal process by resolution of the Board of Supervisors on March 22, 2004; and

WHEREAS, The applications were referred to the Agricultural and Forestal District Advisory Committee and said Committee has reviewed the application and reported its findings and recommendations on August 24, 2004; and

WHEREAS, The Planning Commission did publish notice of the pendency of the applications on June 23, 2004 in the New River Valley Current and the News Messenger, newspapers of general circulation within Montgomery County, Virginia; and

WHEREAS, The Planning Commission held a public hearing on September 8, 2004; and

WHEREAS, The Planning Commission forwarded the applications with its findings and recommendation for approval to the Board of Supervisors on September 8, 2004, and;

WHEREAS, The Board of Supervisors after proper notice held it's public hearing on September 27, 2004.

NOW, THEREFORE, BE IT ORDAINED, By the Board of Supervisors of Montgomery County, Virginia, as follows:

- 1) That the conservation, protection and encouragement of the development and improvement of its agricultural and forestall land for the production of food and other agricultural and forestal products is vital to the public interest, and that the conservation and protection of these lands as a valued natural and ecological resource as well as economic and environment resource of major importance is also in the public interest.
- 2) That this Agricultural and Forestal District, AFD-4, has been reviewed and is hereby continued and renewed, term of eight years terminating on the 31<sup>st</sup> Day of December, 2012, in accordance with the provisions of Title 15.2, Chapter 36, Sections 15.2-4300 through 15.2-4314 Code of Virginia, 1950, as amended.
- 3) That said District as renewed shall consist of approximately 869 acres in the Riner Magisterial District of Montgomery County, and shall include the following parcels:



<b>Name</b>	<b>Tax Map #</b>	<b>Acreage</b>
Charles B. Childress	92-A-4A	7.214
William F. Chrisman, ETAL	91-A-92	50.8
	92-A-13, 14	82.4
Frances R. Crockett	77-A-144C	36.571
Linda S. Crockett	77-A-144E	90.257
D. Todd Linkous	92-9-1-7, 11-1*	14.228
Phillip E. Nolen	77-A-144D	112.84
Childress Farms, Inc.	092-A-4, 94, 93*	475.02
<b>TOTAL</b>		<b>869.331</b>

- 4) That these parcels qualify for land use value assessment provided the parcels meet the criteria of Section 58.1-3230 and 58.1-3233 of the Code.
- 5) That the owners of land within said District shall not terminate the District except in accordance with Section 15.2-4314 of the Code.
- 6) That lawful termination of any owner's association of the District shall not serve to terminate the existence of the District but the District shall continue in effect until the review required by Section 15.2-4311 of the Code.
- 7) That all County ordinances and regulations shall be applicable within said District; provided, such ordinance and regulations are Agricultural and Forestal Districts Act. Further the Planning Commission is hereby advised that it is the intent of the Board of Supervisors that land use planning decisions or ordinances enacted to implement same shall take into account the special status of both land adjacent to said District and land lying within said District.
- 8) That an exception for secondary roads either within or along the boundary of said District is hereby created and consequently, there is hereby excepted from said District a strip of land extending twenty-five (25) feet on both sides of the center line of all existing secondary roads within or along the boundary of said District from this ordinance.
- 9) That the landowners of said District who do not already have either a conservation plan for agricultural and or a forestry management plan for forest lands shall apply to the appropriate agency for the preparation of such a plan within one year of the establishment of the district.

This ordinance shall take effect upon its adoption.

The vote on the foregoing ordinance was as follows:

<u>AYE</u>	<u>NAY</u>
Doug Marrs	None
Steve L. Spradlin	
Annette S. Perkins	
Gary D. Creed	
John A. Muffo	
Mary W. Biggs	
James D. Politis	

**ORD-FY-05-14**  
**AN ORDINANCE RENEWING**  
**AGRICULTURAL AND FORESTAL DISTRICT (AFD-5) RINER**  
**WITHIN MONTGOMERY COUNTY, VIRGINIA**

On a motion by John A. Muffo, seconded by Steve L. Spradlin and carried unanimously,

WHEREAS, Richard S. Alley, Benjamin Randolph Bishop, Clarence D. Bishop, David Michael Bishop, Joseph Dale Bishop, Clarence D. Bishop, ETUX, Della King Charlton, Wilbert W. Cox, Charlton A. Cromer, Archie E. Cromer, Jr., Karen Dugan, Gregory C. Hale, George B. Hall, Linda A. Alice Hall, Elizabeth A. Hylton, Alma Hester Jones, Phillip Edwin Keith, J. Edwin Keith, ETAL, Michael C. Kenley, David T. Kittinger, Danny T. Layne, George K. Lucas, William D. McPeake, W.J. Miller, Heirs, Lewis D. Mitchell, Robert D. Mitchell, Daniel T. Moose, Dennis W. Newman, Mary Hayne Baldwin North, Grayson Franklin Page, James C. Page, Jon Michael Payne, Sandra M. Prillaman, Ralph Rasnic, W. Nelson Ridinger, Sally Rowe, John W. Shanklin, James Robert Shelton, Joe Stewart, Sandor L. Tako, George W. Teany, Henry W. Tieleman, Dellas A. & Janis C. Young, Five Points Limited Partnership, Nolley Brothers, Oscar E. Phillips Heirs, and Phillips Family Trust have filed an application for the renewal of AFD-5 on May 17, 2004, which Agricultural and Forestal District was created by an ordinance adopted on the 2<sup>nd</sup> day of March, 1981 and previously renewed by ordinances adopted on October 10, 1988 and October 15, 1996; and

WHEREAS, The Planning Department held a public meeting on April 29, 2004; following commencement of the renewal process by resolution of the Board of Supervisors on March 22, 2004; and

WHEREAS, The applications were referred to the Agricultural and Forestal District Advisory Committee and said Committee has reviewed the application and reported its findings and recommendations on August 24, 2004; and

WHEREAS, The Planning Commission did publish notice of the pendency of the applications on June 23, 2004 in the New River Valley Current and the News Messenger, newspapers of general circulation within Montgomery County, Virginia; and

WHEREAS, The Planning Commission held a public hearing on September 8, 2004; and

WHEREAS, The Planning Commission forwarded the applications with its findings and recommendation for approval to the Board of Supervisors on September 8, 2004, and;

WHEREAS, The Board of Supervisors after proper notice held it's public hearing on September 8, 2004 and October 13, 2004.

NOW, THEREFORE, BE IT ORDAINED, By the Board of Supervisors of Montgomery County, Virginia, as follows:

- 1) That the conservation, protection and encouragement of the development and improvement of its agricultural and forestall land for the production of food and other agricultural and forestal products is vital to the public interest, and that the conservation and protection of these lands as a valued natural and ecological resource as well as economic and environment resource of major importance is also in the public interest.

- 2) That this Agricultural and Forestal District, AFD-5, has been reviewed and is hereby continued and renewed, term of eight years terminating on the 31<sup>st</sup> Day of December, 2012, in accordance with the provisions of Title 15.2, Chapter 36, Sections 15.2-4300 through 15.2-4314 Code of Virginia, 1950, as amended.
- 3) That said District as renewed shall consist of approximately 7,556 acres in the Riner Magisterial District of Montgomery County, and shall include the following parcels:

NAME	TAX MAP #	ACERAGE
Richard S. Alley	120-A-55, 83	160.044
Benjamin Randolph Bishop	130-A-31E 130-A-51	39.737 126.5
Clarence D. Bishop	129-A-59	293.36
David Michael Bishop	130-A-33A 139-A-20 139-A-23 139-A-4 139-21,22,24	57.804 10.4 50.5 29.25 138.25
Joseph Dale Bishop	131-A-118, 119, 120 139-A-1,2	44.4 127.669
Clarence D. Bishop, ETUX	129-A-59A	7.93
Della King Charlton	91-A-72,29,30,31,32	72.87
Wilbert W. Cox	127-1-5	65.975
Charlton A. Cromer	91-A-48A,67A, thru 70A	15.575
Archie E. Cromer, Jr.	91-A-35,48,67,68,69,70 91-A-65,66	61.907 10.2
Karen Dugan	120-A-22C 120-A-106A	20.879 14.5125
Gregory C. Hale	107-A-12,13,14,15	93.671
George B. Hall	136-A-33,34,35, 137-A-14 136-A-35 137-A-14	106 46 154.548
Linda A. Alice Hall	136-A-16 136-A-21 136-A-23 136-A-24 136-A-25 136-A-26	60.058 76.4 19 15 2 1
Elizabeth A. Hylton	127-1-3, 128-2-2	315.78
Alma Hester Jones	137-A-38	60.85
Phillip Edwin Keith	106-A-34 106-A-33	77.78 94.589
J. Edwin Keith, ETAL	106-A-14	24.923
Michael C. Kenley	117-A-2C, 2D1	6.1
David T. Kittinger	120-A-16A	156.212
Danny T. Layne	140-A-20, 20C	70.001

George K. Lucas	127-A-64, 65 136-A-43, 44 127-A-65A	452.08 5.22
William D. McPeake	90-A-15 90-A-16	64 131
W.J. Miller, Heirs	105-A-12,13,14	136.42
Lewis D. Mitchell	117-A-12 117-A-13	215.69 22.5
Robert D. Mitchell	117-A-12A	9
Daniel T. Moose	131-A-69F	45
Dennis W. Newman	107-A-5,6,7,8,9,10,11	173.37
Mary Hayne Baldwin North	136-A-22 136-A-9 136-A-9C	47.972 35 50
Grayson Franklin Page	105-A-45	67.63
James C. Page	105-A-47 105-A-54	25.96 111.17
Jon Michael Payne	91-A-79 91-A-82 91-A-88	9.45 141.34 34
Sandra M. Prillaman	119-A-55	131.419
Ralph Rasnic	129-A-65	110.135
W. Nelson Ridinger	107-A-57	65
Sally Rowe	120-A-10	172.91
John W. Shanklin	116-A-23, 24 116-A-25 116-A-29 116-A-21, 22 116-A-26	34.95 17.12 19.64 189.95 43.4
James Robert Shelton	130-A-50A 139-A-32	1.78 148.083
Joe Stewart	128-A-32,33,34 130-A-3	552.5 259
Sandor L. Tako	131-A-22,23,24	88.12
George W. Teany	104-A-77,78,79 118-A-53 119-A-8A	111.462 51.2 6.3
Henry W. Tieleman	136-A-30 136-A-31	11 62
Dellas A. & Janis C. Young	105-A-1 105-1-1,2	65.68 8.37
Five Points Limited Partnership	119-A-59 119A-A-6	71.578 8

Nolley Brothers	120-A-1	60
	120-A-11,12	116.8
	120-A-20	28
	120-A-24	67
	120-A-25,26,27,28,29	27.4
	120-A-2,3,4,5,8	229.176
Oscar E. Phillips Heirs	105-A-16	172.148
	105-A-20	67.4
Phillips Family Trust	106-4-10A,10B,10C	53.893
TOTAL		7555.9

- 4) That these parcels qualify for land use value assessment provided the parcels meet the criteria of Section 58.1-3230 and 58.1-3233 of the Code.
- 5) That the owners of land within said District shall not terminate the District except in accordance with Section 15.2-4314 of the Code.
- 6) That lawful termination of any owner's association of the District shall not serve to terminate the existence of the District but the District shall continue in effect until the review required by Section 15.2-4311 of the Code.
- 7) That all County ordinances and regulations shall be applicable within said District; provided, such ordinance and regulations are Agricultural and Forestal Districts Act. Further the Planning Commission is hereby advised that it is the intent of the Board of Supervisors that land use planning decisions or ordinances enacted to implement same shall take into account the special status of both land adjacent to said District and land lying within said District.
- 8) That an exception for secondary roads either within or along the boundary of said District is hereby created and consequently, there is hereby excepted from said District a strip of land extending twenty-five (25) feet on both sides of the center line of all existing secondary roads within or along the boundary of said District from this ordinance.
- 9) That the landowners of said District who do not already have either a conservation plan for agricultural and or a forestry management plan for forest lands shall apply to the appropriate agency for the preparation of such a plan within one year of the establishment of the district.

This ordinance shall take effect upon its adoption.

The vote on the foregoing ordinance was as follows:

<u>AYE</u>	<u>NAY</u>
Doug Marrs	None
Steve L. Spradlin	
Annette S. Perkins	
Gary D. Creed	
John A. Muffo	
Mary W. Biggs	
James D. Politis	

**ORD-FY-05-15**  
**AN ORDINANCE CREATING AN ADDITION**  
**TO AGRICULTURAL AND FORESTRAL DISTRICT**  
**(AFD-5) RINER WITHIN MONTGOMERY COUNTY, VIRGINIA**

On a motion by John A. Muffo, seconded by Steve L. Spradlin and carried unanimously,

WHEREAS, Jeff Armistead has filed application for an addition to AFD-5 on May 18, 2004, which Agricultural and Forestral District was created by ordinance adopted on March 2, 1981 and previously renewed by ordinances adopted on October 10, 1988 and October 15, 1996; and

WHEREAS, The application was referred to the Agricultural and Forestral District Advisory Committee and said Committee has reviewed the application and reported its findings and recommendations on the August 24, 2004; and

WHEREAS, The application was referred to the Planning Commission and said Commission did publish notice of the pendency of the application on August 28, 2004 in the New River Current, a newspaper of general circulation within Montgomery County, Virginia; and

WHEREAS, The Planning Commission held a public hearing on October 13, 2004 and thereafter forwarded the applications with its findings and recommendations for approval to the Board of Supervisors; and

WHEREAS, The Board of Supervisors, after proper notice, held its public hearing on October 25, 2004.

NOW, THEREFORE, BE IT HEREBY ORDAINED, By the Board of Supervisors of Montgomery County, Virginia:

1. That the addition to Agricultural and Forestral District AFD-5 is in accordance with the provision of Title 15.2, Chapter 43, Sections 15.2-4300 through 15.2-4314, Code of Virginia, 1950, as amended.
2. That said addition shall consist of approximately 31.042 acres owned by on Sidney Church Road (SR 606) in the Riner Magisterial District of Montgomery County consisting of tax map no. 128-2-7A,7B,7C,7D (parcel ID 007821).

The vote on the foregoing ordinance was as follows:

AYE

Doug Marrs  
Steve L. Spradlin  
Annette S. Perkins  
Gary D. Creed  
John A. Muffo  
Mary W. Biggs  
James D. Politis

NAY

None

**ORD-FY-05-16**  
**AN ORDINANCE AMENDING CHAPTER 9.2,**  
**ENTITLED WASTEWATER PRETREATMENT,**  
**SECTIONS 9.2-1, 9.2-3 THROUGH 9.2-14, AND 9.2-16**  
**RESPECTIVELY OF THE CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA,**  
**IN ORDER TO ESTABLISH LOCAL PRETREATMENT POLLUTANT LIMITS**  
**AND TO INCORPORATE THE UPDATED**  
**DEPARTMENT OF ENVIRONMENTAL QUALITY REGULATIONS**

On a motion by Gary D. Creed, seconded by Mary W. Biggs and carried unanimously,

BE IT ORDAINED By the Board of Supervisors of the County of Montgomery, Virginia that Chapter 9.2, Sections 9.2-1, 9.2-3 through 9.2-14 and 9.2-16 of the Code of the County of Montgomery, Virginia, shall be amended and reordained as follows:

**CHAPTER 9.2.**

**WASTEWATER PRETREATMENT**

**Sec. 9.2-1. Objectives: applicability.**

This Chapter sets forth uniform requirements for users of the public wastewater collection systems within Montgomery County and enables the County and the Montgomery County Public Service Authority to comply with its obligations under the Pepper's Ferry Regional Wastewater Treatment Authority User Agreement and Rules and Regulations, the contract with the Blacksburg-Virginia Polytechnic Institute Sanitation Authority, and enables the Montgomery County Public Service Authority, which owns and operates the Public Wastewater Collection System on behalf of the County to comply with the ~~and~~ applicable Federal and State laws and regulations, including without limitation The Federal Clean Water Act (344 USC 1251), the Federal General Pretreatment Regulations (40 CFR 403), and the Department of Environmental Quality-Virginia State Water Control Board Permit Regulation ~~No. 6~~ VR 680-14-01, et seq., or any replacement or modification of each, as they pertain to the discharge of wastewater and its pollutants. The objects of this Chapter are:

- (1) To prevent the introduction of pollutants into the public collection systems that will interfere with the operation of regional wastewater systems;
- (2) To prevent the introduction of pollutants into the regional treatment plants which might pass through the plants inadequately treated into the New River or the Roanoke River or the atmosphere, or otherwise be incompatible with the integrity of the treatment plants and their collection systems;
- (3) To ensure that the quality of the regional wastewater treatment plants sludge is maintained at a level which allows its use and disposal in compliance with the regional plants' sludge plan and applicable State and Federal regulations;
- (4) To protect the regional systems' personnel and facilities and the general public;
- (5) To improve the opportunity to recycle and reclaim wastewater and sludge from the regional systems.

- (6) To provide for fees for the equitable distribution of the cost of operation, maintenance and improvement of the ~~County's~~ Montgomery County Public Service Authority's public collection systems and the regional systems; and
- (7) To enable the ~~County~~ Montgomery County Public Service Authority to implement its pretreatment program, and for the County to discharge its obligations to the Pepper's Ferry Regional Wastewater Treatment Authority, and the Blacksburg-Virginia Polytechnic Institute Sanitation Authority, ~~and~~ through the Montgomery County Public Service Authority.

The provisions of this Chapter shall apply to all industrial users of the ~~County's~~ Montgomery County Public Service Authority's wastewater collection systems. It authorizes the issuance of wastewater discharge permits, monitoring, compliance and enforcement activities (including penalties); establishes administrative review procedures; requires industrial user reporting; and provides for the setting of fees for the equitable distribution of the costs and expenses resulting from establishment of the pretreatment program.

### **9.2-3. Definitions; abbreviations.**

(a) *Definitions.* Unless a provision explicitly states otherwise, the following terms and phrases, as used in this Chapter, shall have the meanings hereinafter designated for the purposes of this Chapter.

*Act or "the Act":* The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251, et. seq.

*Analytical Methods:* The examination and analytical procedures prescribed in 40 CFR Part 136 and amendments thereto. Where 40 CFR Part 136 does not prescribe the test methods, methods used must be approved by ~~the County and~~ the Authority and the EPA.

*Applicant:* Any existing or proposed nonresidential user who files an application for a Wastewater Discharge Permit or variance ~~with the County or~~ with the Authority.

*Approval Authority:* The Commonwealth of Virginia, Department of Environmental Quality.

*Authority:* Means either the Pepper's Ferry Regional Wastewater Treatment Authority, the Blacksburg-Virginia Polytechnic Institute Sanitation Authority, or the Montgomery County Public Service Authority, as may be appropriate.

*Authorized Representative of the Industrial User:*

- (1) If the industrial user is a corporation, authorized representative shall mean:
  - a. The president, secretary, treasurer, or a vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation:
  - b. The manager of one or more manufacturing, production, or operating facilities ~~employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if~~ authority provided, the manager is authorized to make management decisions

October 25, 2004

Page 16 of 77



which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- (2) If the industrial user is a partnership, or sole proprietorship, an authorized representative shall mean a general partner or proprietor, respectively;
- (3) If the industrial user is a Federal, State or local governmental facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her designee;
- (4) The individuals described in paragraphs A. 1-3 above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates, or having overall responsibility for environmental matters for the applicant, and the written authorization is submitted to the County Authority.

*Batch Hauled:* Wastewater transported from the user or residence by means other than a jurisdiction's collection system. Batch hauled waste can not be introduced to County's Montgomery County Public Service Authority's collection systems without a permit from both the County Montgomery County Public Service Authority and any other the appropriate Authority. Batch hauled wastewater must be delivered to the regional facility or permitted designated points of delivery.

*BOD (Biochemical Oxygen Demand):* The quantity of oxygen utilized in the biochemical oxidation of wastewater under standard laboratory procedures in five (5) days at 20 degrees Celsius, expressed in mg/l.

*Building Sewer:* A sewer conveying wastewater from the premises of a user to the County's Montgomery County Public Service Authority's collection facilities.

*Categorical Pretreatment Standard or Categorical Standard:* The National Categorical Pretreatment Standards or Pretreatment Standards as promulgated time to time by the United States Environmental Protection Agency in accordance with Section 307 (b) and (c) of the Act (33 USC 1317) which apply to a specific category of industrial users and which appear in 40 CFR Chapter I, Subchapter N. Parts 405-471.

*COD (Chemical Oxygen Demand):* The measure, expressed in mg/l, of the oxygen consuming capacity of inorganic and organic matter present in water or wastewater, expressing the amount of oxygen consumed by a chemical oxidant in a specific approved test, but not

differentiating between stable and unstable organic matter and thus not necessarily correlating with BOD.

*COD/BOD Ratio:* The ratio of the value of COD and BOD as these values are defined above.

*Collection facilities:* Any ~~County~~ Montgomery County Public Service Authority facility used or to be used in connection with the collecting and delivering of wastewater to the Authority at the points of delivery, including but not limited to collector and interceptor lines, pump stations, and force mains, but excluding any part of the regional facility.

*Code of Federal Regulations (40 CFR):* Title 40 of the Code of Federal Regulations published in a U.S. government publication, the Federal Register and/or any amendments thereto, or substitutions for or replacement for the same.

*Color:* The optical density at the visual wave length of maximum absorption, relative to distilled water, One Hundred per cent (100%) transmittance is equivalent to zero (0.0) optical density.

*Combined Wastestream Formula:* Procedure for calculating alternative discharge limits at industrial facilities where a regulated stream is combined with other wastewater prior to treatment. USEPA approved procedures can be found in (40 CFR 403.7).

*Compatible Wastewater:* A wastewater with characteristics such as PH, BOD , suspended solids and additional physical and chemical characteristics which can be treated and controlled in the collection facilities and the regional facility with no detrimental effect upon treatment efficiency or operation. Substances that can be reduced by the regional facility to levels for discharge to the New River or Roanoke River or whose pass through is not detrimental to the New River or Roanoke River are termed "compatible pollutants."

*Composite Sample:* A sample compiled of individual samples of water or wastewater taken at selected intervals, based on an increment of either time or flow, generally hourly, for a specified period of time.

*Control Authority:* Pepper's Ferry Regional Wastewater Treatment Authority (Pepper's Ferry RWTa), for wastewater flowing to its regional treatment facility; Blacksburg-Virginia Polytechnic Institute Sanitation Authority (Blacksburg-VPI) for wastewater flowing to its regional treatment facility; and Montgomery County Public Service Authority (PSA) for wastewater flowing to its treatment facilities.

*Control Manhole:* A manhole giving access to a building sewer at some point before the building sewer discharge mixes with other discharges in the public sewer.

~~*Cooling Water:* That uncontaminated water discharged from any source such as air conditioning, cooling or refrigeration, in which there are no prohibited and/or toxic chemical additions and the only allowable addition to said water is heat. Department of Environmental Quality Commonwealth of Virginia, which is the environmental agency that contains the State Water Control Board, which is the designated State agency for regulation of the USEPA Pretreatment Program.~~

*County:* Montgomery County, Virginia

*DEQ:* The Department of Environmental Quality Commonwealth of Virginia, which is the environmental agency that ~~contains~~ serves the State Water Control Board and which is the designated state agency for regulation of the USEPA Pretreatment Program.

*Director:* Director of the Montgomery County Public Service Authority. The Director is the person designated by the County to supervise the operations of ~~the County's~~ Wastewater Collection Facilities located in the County that are owned and operated by the Montgomery County Public Service Authority and who is charged with certain duties and responsibilities under this Chapter, or his duly authorized representative.

*Direct Discharge:* The discharge of treated or untreated wastewater directly to the waters of the Commonwealth of Virginia.

~~*Discharge:* see "To Discharge."~~

*EPA or USEPA or Environmental Protection Agency:* The U. S. Environmental Protection Agency or where appropriate its duly authorized agent.

*EPA Method:* The examination and analytical procedures set forth in the latest edition of Manual of Methods for Chemical Analysis of Water and Waste, as prepared by EPA.

*Excessive Infiltration/Inflow:* The quantities of infiltration/inflow which can not be economically eliminated from the ~~County's~~ Montgomery County Public Service Authority wastewater collection facility by rehabilitation, as determined by cost-effective engineering analysis.

*Executive Director:* The Executive Director of the Pepper's Ferry Regional Wastewater Treatment Authority, or the Executive Director of the Blacksburg-Virginia Polytechnic Institute Sanitation Authority, as appropriate.

*Existing Source:* Any source of discharge, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

*Garbage:* Animal and vegetable wastes and residues from preparation, cooking, and dispensing of food; and from the handling, processing, storage and sale of food products and produce involving food preparation and facility cleaning wastewater.

*Grab Sample:* A single sample of wastewater taken at neither a set time or specific flow condition over a period of time not exceeding 15 minutes.

*Health Department:* The Commonwealth of Virginia State Department of Health or any agency of the Commonwealth of Virginia which may succeed to its duties.

*Holding Tank Waste:* Any waste from holding tanks such as chemical toilets, campers, trailers, and septic tanks. Holding tank wastes are considered nonresidential and normally require a permit.

*Incompatible Wastewater:* A wastewater which is not acceptable or compatible for adequate treatment or acceptable pass through at the regional facility or the County's Montgomery County Public Service Authority's collection system.

*Indirect Discharge or Discharge:* The discharge or the introduction of nondomestic pollutants from any source regulated under Section 307(b) or (c) of the Act, (33, USC 1317), into the ~~[Participant's]~~ Authority's collection facilities (including holding tank waste discharged into the system).

*Industrial Waste:* Waste resulting from; 1) any process of industry, manufacturing, trade, or business, 2) the development of any natural resource, 3) any mixture of the waste with water. ~~or normal or normal wastewater, that is distinct from normal wastewater.~~

*Industrial Wastewater:* Wastewater, other than ~~normal domestic~~ wastewater, from non residential establishments. ~~which exceeds 300 mg/l BOD or 250 mg/l suspended solids and/or contains wastes from nonresidential establishments containing one or more elements, compounds, or substances considered potentially toxic and/or detrimental to biological wastewater treatment or the New River, or Roanoke River.~~

*Infiltration:* Water other than wastewater that enters the collection facilities from the ground through such means as defective pipes, pipe joints, connections or manholes and is distinguished from inflow.

*Inflow:* Water other than wastewater that enters the collection facilities from sources such as roof leaders, cellar drains, yard drains, area drains, foundation drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration.

*Instantaneous Maximum Allowable Discharge Limit:* The maximum concentration (or loading) of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

*Interceptor Sewer:* A sewer whose primary purpose is to transport wastewater from collector facilities to the regional facility.

*Interference:* A discharge which alone or in conjunction with other discharges inhibits or disrupts the County's Montgomery County Public Service Authority's or the regional facility's treatment processes or operations, or its sludge processes which contributes to a violation of any requirement of the Pepper's Ferry RWTAs NPDES Permit and/or its associated sludge management plan; the Blacksburg-VPI's NPDES permit; or the PSA's NPDES permit. The term includes prevention of sewage sludge use ~~of~~ or disposal by Pepper's Ferry RWTAs, Blacksburg-VPI, or PSA in accordance with 405 of the Act, (33, USC 1345) or any criteria, guidelines, or

regulations developed pursuant to the Solid Waste Disposal Act (SWDA); including Title II (RCRA); the Clean Air Act; the Toxic Substances Control Act; the Marine Protection Research and Sanctuaries Act; or more stringent state criteria (including those contained in any State sludge management plan prepared pursuant to Subtitle D Title IV of SWDA) applicable to the method of disposal or use employed by Pepper's Ferry RWT, Blacksburg-VPI, or PSA.

*Lateral Sewer:* The extension from the building sewer to the public sewer or other place of disposal. This sewer extends from the property line to the public sewer line.

*Medical Waste:* Isolation wastes, infectious agents, human blood and blood by-products, pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

*Milligrams Per Liter (mg/l):* The same as parts per million when the specific gravity of the liquid is 1.0, and is a weight-to-volume ratio; the milligrams-per-liter volume multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.

*National Categorical Pretreatment Standards:* Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 USC 1347) which applied to a specific category of Industrial Users.

*National Prohibitive Discharge Standard or Prohibitive Discharge Standard:* Any regulation developed under the authority of 307(b) of the Act and 40 CFR, Section 403.5.

*New Source:*

(1) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

- a. The building, structure, facility or installation is constructed at a site at which no other source is located;
- b. The building, structure, facility or installation totally replaces the process or production equipment that caused the discharge of pollutants at an existing source; or
- c. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of Section (1) (b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

- a. Begun, or caused to begin as part of a continuous on-site construction program;
  1. Any placement, assembly, or installation of facilities or equipment, or
  2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
- b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

*Noncontact Cooling Water:* Water used for cooling which does not come into direct contact with any raw material intermediate product, waste product, or finished product.

*Non Significant Industrial User:* A nondomestic user that does not meet the criteria of a significant user.

*Normal Use:* Any user discharging waste of a pollutant strength less than or equal to that of normal wastewater.

*Normal Wastewater:* Wastewater discharged into a public sewer in which all of the following conditions are complied within:

- (1) BOD - less than or equal to 300 mg/l
- (2) Suspended Solids - less than or equal to 250 mg/l.
- (3) No toxic or harmful substances as regulated in this Ordinance.
- (4) Other - Other pollutants (including potential or actually harmful substances) in concentrations less than or equal to those established as typical for residential users.

*Overload:* The imposition of organic or inert solids or hydraulic loading on the regional system in excess of its engineered design capacity.

*Pass Through:* A discharge which exits the Authority's facilities into State waters in quantities or concentrations which, along, or in conjunction with a discharge or discharges from other sources, is a cause or contributes to the increase of violation of any requirement of ~~Pepper's Ferry RWTAs~~ the Authority's VPDES Permit, including an increase in the magnitude of a violation.

*Person:* Any individual, corporation, organization, government, or governmental subdivision, or agency, business trust, estate, trust, partnership association, or any other legal entity.

*pH:* The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution. A measure of substances of acidity or alkalinity, expressed in standard units.

*Pollution:* The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

*Pollutant:* Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, medical waste, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g. pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

*POTW:* A treatment works which is owned by a State or municipality including any devices or systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes or other conveyances only if they convey wastewater to a POTW Treatment Plant.

*Pretreatment:* The application of physical and/or chemical and/or biological processes to reduce the amount of pollutants, to eliminate pollutants or alter the nature of the pollutant properties in a wastewater prior to discharging said wastewater into the ~~County's~~ Montgomery County Public Service Authority's collection facilities.

*Pretreatment Requirements:* Any substantive or procedural requirement related to pretreatment, other than a Pretreatment Standard imposed on a nonresidential user by this Chapter of the Montgomery County Code.

*Pretreatment Standards:* All applicable Federal rules and regulations implementing Section 307 of the Federal Water Pollution Control Act Amendments of 1972, PL 92-500, or any amendments thereof, as well as non-conflicting state and local standards. In case of conflict of regulations, the most stringent thereof shall be applied.

*Process Water:* Water used in an industrial process, excluding sanitary, noncontact cooling, and boiler blowdown uses.

*Prohibited Discharge or Prohibited Discharge Standards:* Any discharge of water, wastewater, or industrial wastewater into the ~~County~~ Montgomery County Public Service Authority or the regional facility containing any of the pollutants in the quantity or of the type as described in Section 9.2-4 of this Chapter.

*Public Sewer:* A pipe or conduit carrying wastewater in which owners of abutting properties shall have the use, said sewer being owned by the ~~County~~ Montgomery County Public Service Authority and considered part of the ~~County's~~ Montgomery County Public Service Authority's collection facilities.

*Regional Facility:* The Pepper's Ferry Regional Wastewater Treatment Facility and all associated facilities now existing or to be constructed by or for Pepper's Ferry RWTA and owned by the Authority. The Blacksburg-Virginia Polytechnic Institute Sanitation Authority Treatment Facility and all associated facilities now existing or to be constructed by or for and owned by the Authority. The Montgomery County Public Service Authority Treatment Facility or Facilities and all associated facilities now existing or to be constructed by or for and owned by the Authority.

*Regional System:* Regional Facility (POTW) and all systems of users connected thereto.

*Residential User:* Any user discharging normal wastewater into the ~~County's~~ Montgomery County Public Service Authority's collection facilities as a principle homeowner/renter or any user(s) discharging normal wastewater from a condominium, townhouse, apartment or other such development consisting of six (6) or less units.

*Sanitary Sewer:* A publicly owned sewer that conveys wastewater or industrial wastes or a combination of both, and into which storm water, surface water, ground water, or other unpolluted wastes are not intentionally passed.

*Septage Waste:* Any sewage "batch hauled" from a holding or storage or treatment vessel.

*Septic Tank Waste:* Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

*Sewage:* Human excrement and gray water (household showers, dishwashing operations, etc.).

*Sewer:* A pipe or conduit for carrying normal or industrial wastewater.

*Significant Industrial User:* (a) all industrial users subject to Categorical Pretreatment

Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N; and (b) any other industrial user that: discharges an average of twenty five thousand (25,000) gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater); contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the Control Authority as defined in 40 CFR 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)). Upon a finding that an industrial user meeting the criteria in ~~paragraph 1~~ of this definition has no reasonable potential for adversely affecting the Authority's operations or for violating any pretreatment standard or requirements, the ~~County~~ Montgomery County Public Service Authority or the Control Authority (as defined in 40 CFR 4.3.12(a)) may at any time, on its own initiative, or in response to a petition received from an industrial user or privately owned treatment works, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user. Any determination by the ~~County~~ Montgomery County Public Service Authority that a user is not a significant industrial user must also be approved by the Authority.

*Slug Discharge (Load):* Any discharge of a non-routine episodic nature, including but not limited to, an accidental spill or a non-customary batch discharge.

*Standard Industrial Classification (SIC):* A classification pursuant to the Standard Industrial Classification Manual issued by the Office of Management and Budget.



*Standard Methods:* The examination and analytical procedures set forth in the latest edition, at the time of analysis, Standard Methods for the Examination of Water and Wastewater as prepared, approved and published jointly by the American Public Health Association, the American Water Works Association, and the Water Environment Federation.

*State:* Commonwealth of Virginia.

*Storm Sewer:* A public sewer which carries storm and surface waters and drainage and into which wastewater or industrial wastes are not intentionally passed.

*Storm Water:* Any flow occurring during or immediately following any form of natural precipitation and resulting therefrom, including snow melt.

*Suspended Solids:* Solids that either float on the surface of, or are in suspension in water, wastewater, or other liquids, and which are largely removable by laboratory filtering.

*Toxic Pollutant:* Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of Clean Water Act (section 307) or other Federal, State, or Authority regulations.

*Treatment Plant Effluent:* Any discharge of pollutants from the regional treatment plant into waters of the State.

*Upset:* An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation. Also an "upset" constitutes an affirmative defense to a civil penalty action brought for noncompliance with categorical pretreatment standards if the industrial user who wishes to establish the affirmative defense of upset demonstrates, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (1) An upset occurred and the industrial user can identify the cause(s) of the upset;
- (2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedure;
- (3) The industrial user has submitted the following information in writing to the ~~County~~ Montgomery County Public Service Authority and to the Control Authority within 24 hours of becoming aware of the upset or orally within 24 hours if confirmed in writing within five days;
  - a. A description of the indirect discharge and cause of noncompliance;
  - b. The period of compliance, including exact dates and times, or if not corrected, the anticipated time and noncompliance is expected to continue; and
  - c. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

The industrial user seeking to establish the occurrence of an upset shall have the burden of proof. The industrial user shall control production or discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

*User:* Any source of indirect discharge.

*VPDES (NPDES) Permit:* A permit to discharge to the New River, or Roanoke River, or other watercourse issued to the Authority by the Virginia State Water Control Board indicating required levels of treatment and allowable discharge concentrations and quantities. The VPDES permit also regulates the Authority's pretreatment and sludge management plans.

*Waste:* Rejected, unutilized, or superfluous substances in liquid, gaseous, or solid form resulting from domestic, agricultural, or industrial activities.

*Wastewater:* The liquid and water-carried waste from residences, commercial buildings, institutions, and industrial facilities, together with any non-excessive ground, surface, and storm water that may be present, whether treated or untreated, which is discharged into or permitted to enter the ~~County's~~ Montgomery County Public Service Authority's collection facilities and hence the regional facility.

*Wastewater Discharge or Pretreatment Permit:* As set forth in this Chapter.

*Wastewater Treatment Plant or Treatment Plant:* That portion of the regional system designed to provide treatment of sewage and industrial waste.

*Waters of the State:* All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

*Water Control Board (VSWCB):* The Department of Environmental Quality - Virginia State Water Control Board or any agency of the Commonwealth of Virginia which may succeed to its duties.

(b) *Abbreviations.* The following abbreviations shall have the designated meanings:

(1)	BOD	Biochemical Oxygen Demand
(2)	CFR	Code of Federal Regulations
(3)	COD	Chemical Oxygen Demand
(4)	CWA	Clean Water Act
(5)	DEQ	Department of Environmental Quality- <del>State Control Board</del>
(6)	EPA	Environmental Protection Agency
(7)	l:	Liter
(8)	gpd	gallons per day
(9)	MCPSA, or PSA	<u>Montgomery County Public Service Authority</u>
(9) (10)	mg	Milligram

<del>(10)</del> (11)	mg/l	Milligram per liter
<del>(11)</del> (12)	NPDES	National Pollutant Discharge Elimination System
<del>(12)</del> (13)	PFRWTA	Pepper's Ferry Regional Treatment Plant
<del>(13)</del> (14)	RCRA	Resource Conservation and Recovery Act
<del>(14)</del> (15)	SIC	Standard Industrial Classification
<del>(15)</del> (16)	SWDA	Solid Waste Disposal Act, 42 USC 6901, et seq.
<del>(16)</del> (17)	TSS	Total Suspended Solids
<del>(17)</del> (18)	USC	United States Code
<del>(18)</del> (19)	VPDES	Virginia Pollutant Discharge Elimination System
<del>(19)</del> (20)	VSWCB	Virginia State Water Control Board

#### Sec. 9.2-4. - General Sewer Use Requirements

(a) *Prohibited Discharge Standards.* No user shall introduce or cause to be introduced into the ~~County's~~ Montgomery County Public Service Authority's collection system any pollutant or wastewater which causes pass-through or interference with the operation or performance of the regional system or violation of the State Water Quality Standards. These general prohibitions apply to all users of the system whether or not they are subject to categorical pretreatment standards or any other Federal, State or local pretreatment standards or requirement. Furthermore, no user may contribute the following substances to the system:

- (1) Pollutants which create a fire or explosive hazard in the municipal wastewater collection and/or regional system, including, but not limited to waste streams with a closed-cup flashpoint of less than 140 Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR 261.21.
- (2) Any wastewater have a pH less than 5.0 or more than 10.5, or otherwise causing corrosive structural damage to any portion of the regional system or equipment or endangering personnel and/or the general public.
- (3) Solid or viscous substances in amount which will cause obstruction of the flow in the collection system resulting in interference, but in no case shall organic solids be greater than 0.25 inches (.062 centimeters) in any dimension. All solids must be of sufficient size and density to be conveyed through the collection system.
- (4) Any wastewater containing pollutants, including oxygen demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the regional system; wastewater treatment or sludge process, or which will constitute a hazard to humans or animals.
- (5) Any wastewater having a temperature greater than 120 degrees Fahrenheit (48.5 degrees Celsius), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case a temperature which causes the wastewater temperature at the introduction in Regional Facilities to exceed 90 degrees Fahrenheit (32.2 degrees Celsius) or to increase at a rate of 10 degrees/hour Fahrenheit (5.5 degrees Celsius) or greater.

- (6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
- (7) Any pollutants which result in the presence of toxic gases, vapors or fumes within the regional system in a quantity that may cause acute worker health and safety problems.
- (8) Any hauled pollutants or wastewater unless specifically authorized by the Director and the Authority.
- (9) Any noxious or malodorous liquid, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance, a hazard to life, or to prevent entry into the sewers for maintenance and repair.
- (10) Any wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent thereby violating the authority's VPDES permit or ~~the state water control board's general standards and/or the rules and regulations of the authority~~ any state or local standard.
- (11) Any wastewater containing any radioactive waste or isotopes, except as specifically approved by the Director and the Authority in compliance with applicable local, State and federal requirements, ~~and the authority's rules and regulations~~.
- (12) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted industrial wastewater, unless specifically authorized by the Director and the Authority.
- (13) Any sludges, screenings, or other residues from the pretreatment of industrial wastes.
- (14) Any medical waste, except as specifically authorized by the Director and the Authority.
- (15) Any wastewater causing the Authority's regional plant effluent to fail a toxicity test.
- (16) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the Authority's regional plant or the County's collection system.
- (17) Any discharge of fats, oils, or greases of animal or vegetable origin in sufficient quantity that may cause or contribute to the cause of restricting system flow to cause interference to the regional system.
- (18) Garbage shall not be discharged unless it is shredded to a degree that all particles can be carried freely under the flow conditions of the collection system. Particles greater than ~~0.5 inch (1.2 centimeters)~~ 0.25 inches (.062 centimeters) in any dimension are prohibited. The Director must approve the use and installation of any garbage grinder 0.75 horsepower or greater.
- (19) Any toxic substances in amounts exceeding standards promulgated by EPA pursuant to Section 307(a) of PL 92-500 or amendments thereof, and chemical elements or compounds, phenols or other taste or odor producing substances which are not susceptible to treatment or which may interfere with the biological or physical/chemical unit processes or efficiency of the regional facility.

Wastes prohibited by this section shall not be processed or stored in sufficient quantities and in such a manner that they could be discharged to the system. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the regional system.

(b) *Federal Categorical Pretreatment Standards.* The national categorical pretreatment standards found at 40 CFR, Chapter I, Subchapter N, Parts 405-471 are hereby incorporated in this Chapter of the Montgomery County Code.

(c) *State Requirements.* The Department of Environmental Quality ~~state water control board pretreatment regulation~~ General Pretreatment Regulations for Existing and New Sources of Pollution (9VAC 25-31-730 through 25-31-900) and other applicable requirements or Regulations are hereby incorporated in this Chapter of the Montgomery County Code.

~~(d) *Pollutant Limits.* In addition to the general prohibited conditions set forth in Section 21-481, Subsections 1, 2 and 3, specific limitations are established for certain compatible and toxic pollutants and other pollutants, for which see A, B and C below. Wastewater discharges having a daily average concentration greater than or instantaneous maximum concentrations 5 times greater than the below stated values (standards) will be controlled by a permit. Allocated limits above the standard may be approved by the County's Director for compatible pollutants within the allowable mass proportion to average five year annual flow allocated to the County by the Authority. Allocated limits above the standard may be approved by the Director for toxic pollutants within the specific allowable limits established by the Authority considering the mass proportion to five year average flow, the permittee's treatment capabilities, the desire to maintain a pollutant capacity reserve and other factors that may be considered in the allocation of pollutant(s) capacity for concentrations greater than normal wastewater.~~

~~(1) Compatible Pollutants~~

~~The following pollutants are considered compatible pollutants and will require a permit from the Director if demonstrated to be in concentrations greater than listed below:~~

~~a. Biochemical Oxygen Demand (5 day) (BOD) 300 mg/l~~

~~5~~

~~b. Chemical Oxygen Demand (COD) 1,500 mg/l~~

~~c. COD:BOD Ratio 5:1~~

~~d.~~

~~e. Total Solids (TS) 1,200 mg/l~~

~~f. Total Suspended Solids (TSS) 250 mg/l~~

~~g. Total Dissolved Solids (TDS) 750 mg/l~~

~~h. Total Inert Solids (TIS) 300 mg/l~~

~~i. Oil and Grease 100 mg/l~~

~~(2) Toxic Pollutants~~

~~The following pollutants are common toxic pollutants which will require a permit if found to be in concentrations greater than listed below, or are believed by the Director to have the potential for having concentrations greater than those tested:~~

~~a. Arsenic 0.005 mg/l~~

~~b. Cadmium 0.0014 mg/l~~

- ~~e. Chromium (total) 0.02 mg/l~~
- ~~d. Copper 0.05 mg/l~~
- ~~e. Lead 0.011 mg/l~~
- ~~f. Nickel 0.04 mg/l~~
- ~~g. Silver 0.001 mg/l~~
- ~~h. Zinc 0.04 mg/l~~

~~Pollutant concentrations and associated permit limits for non-categorical standards apply at the point where the waste is discharged into the County's system. An industrial user may have several separate defined regulated waste streams. All metal limits are expressed as "total" metal unless indicated otherwise.~~

### ~~(3) Other Pollutants~~

~~Other pollutant compounds will be evaluated on a case by case basis and limits established, as required, by the Control Authority. Substances cited in Section 21-481, Subparagraphs 1, 2 and 3, must be assessed as to the need for prohibition or if application controlled and/or monitored by a permit.~~

(d) Local Limits. In addition to the general prohibited conditions set forth in subsection (a) of this section, specific limitations are established for certain compatible and toxic pollutants and other pollutants. Each industrial user shall refer to and comply with the applicable local limits contained in each Authority's approved Pretreatment Program. Each Authority's approved Pretreatment Program limits and future amendments to their limits shall be incorporated into this Ordinance by reference and shall be made a requirement of this Ordinance. Other pollutants, not addressed in the local limits development document, will be evaluated on a case-by-case basis and limits established, as required, by the controlling Authority.

In addition, the following limits and conditions apply to all industrial discharges:

- (1) Fluoride, not greater than that contained in public water supply is prohibited.
- (2) Color, which can not be removed by the Authority's normal wastewater treatment process, such as, but not limited to dye waste and vegetable tanning solutions is prohibited.
- (3) Limits listed in the applicable Authority's pre-treatment program are daily average limits unless otherwise noted.
- (4) Local limits apply at the point where the industrial waste is discharged to the Montgomery County Public Service Authority's system. An industrial user may have several separate defined regulated wastestreams.
- (5) All metal limits are expressed as "total" metal unless indicated otherwise.
- (6) The Director may impose mass limitations in addition to or in place of the concentration base limitations above. If mass limitations are given, it shall be concurred with by the Authority.

### ~~(e) Specific Pollutant Limitations~~

~~Limitations for the following pollutants are established on standards specified by the Authority's development document and an allocation basis based on the industrial user's flow, level of pretreatment provided, level of current pretreatment technology and other factors. Allocated limits above the standard may be approved by the County within the allowable mass allocated to the County and the user by the Authority and must be in accordance with the local limits established by the Local Limits Development Document.~~

- ~~\_\_\_\_\_ (1) arsenic;~~
- ~~\_\_\_\_\_ (2) barium;~~
- ~~\_\_\_\_\_ (3) boron;~~
- ~~\_\_\_\_\_ (4) cadmium;~~
- ~~\_\_\_\_\_ (5) chlorides~~
- ~~\_\_\_\_\_ (6) chromium (hexavalent);~~
- ~~\_\_\_\_\_ (7) chromium (total);~~
- ~~\_\_\_\_\_ (8) copper;~~
- ~~\_\_\_\_\_ (9) cyanide;~~
- ~~\_\_\_\_\_ (10) iron;~~
- ~~\_\_\_\_\_ (11) lead;~~
- ~~\_\_\_\_\_ (12) manganese;~~
- ~~\_\_\_\_\_ (13) mercury;~~
- ~~\_\_\_\_\_ (14) nickel;~~
- ~~\_\_\_\_\_ (15) phenol;~~
- ~~\_\_\_\_\_ (16) selenium;~~
- ~~\_\_\_\_\_ (17) silver;~~
- ~~\_\_\_\_\_ (18) tin;~~
- ~~\_\_\_\_\_ (19) zinc;~~
- ~~\_\_\_\_\_ (20) fluoride — not greater than that contained in public water supply, unless determined by Pepper's Ferry RWTAs to be acceptable based upon volume or quantity considerations.~~
- ~~\_\_\_\_\_ (21) total dissolved solids (including sodium chloride and sodium sulfate) 300 mg/l;~~
- ~~\_\_\_\_\_ (22) inert solids (Fuller's earth, lime slurries, lime residues, etc.) 300 mg/l;~~
- ~~\_\_\_\_\_ (23) excessive discoloration as determined by the approved spectrophotometric method of~~

~~Standard Methods or EPA Methods for industrial wastewater determinations.~~

~~This~~

- ~~\_\_\_\_\_ parameter relates to dye wastes and vegetable tanning solutions but is in no way limited to these discharges;~~
- ~~\_\_\_\_\_ (24) substances with a COD greater than 1,500 mg/l; (25) substances which have a COD~~
- ~~to BOD ratio of greater than 5:1.~~
- ~~\_\_\_\_\_ (25) Substances which have a COD to BOD ratio of greater than 5:1.~~

~~Concentrations and non-categorical standards permit limits apply at the point where the industrial waste is discharged to the County's system. An industrial user may have several separate defined regulated wastestreams. All metal limits are expressed as "total" metal unless indicated otherwise. The Director may impose mass limitations in addition to or in place of the concentration base limitations, above. If mass limitations are given it shall be concurred with by the Authority.~~

~~The above limited are daily average limits. Unless specified, the discharge shall not cause an instantaneous maximum discharge greater than five (5) times the above average daily limit concentrations.~~

(e) ~~(f)~~. *Right to Revision*. The Montgomery County Public Service Authority shall have the right to request the County shall have the right to establish, by ordinance and the Authority has the right to include in wastewater discharge permits, more stringent standards or requirements than contained in this Chapter on discharges to the County's Montgomery County Public Service Authority's system if deemed necessary to comply with the objectives presented in this Chapter, or the general and specific prohibitions in this Chapter. Permit requirements that exceed the provisions of this Chapter must be approved by the County Board of Supervisors.

(f) ~~(g)~~ *Surcharge*. The County Montgomery County Public Service Authority has the right to surcharge the industrial user for allocation of pollutants within pretreatment permit limits which are above normal wastewater concentrations.

(g) ~~(h)~~ *Special Agreement*. The County Montgomery County Public Service Authority with approval from the Authority has the right to enter into special agreements with the industrial users setting out special terms under which they may discharge to the County's Montgomery County Public Service Authority's system. In no case will a special agreement waive compliance with a USEPA or state pretreatment standard, or requirement, Pepper's Ferry RWTAs Rules and Regulations or of this Chapter or the requirement to hold a pretreatment permit. However, the industrial user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. Such industrial user may also request a variance from the categorical pretreatment standard from EPA. Such a request will be considered only if the industrial user can prove that factors relating to its discharge are fundamentally different from the factors considered by EPA when establishing that pretreatment standard. An Industrial user requesting a fundamentally different factor variance must comply with the procedural and substantive provisions in 40 CFR 403.13.

(h) ~~(i)~~ Excessive/Reduced Discharge

No industrial user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Director may impose mass limitations on industrial users which are using dilution or water conservation 1) to meet applicable pretreatment standards or requirements, 2) for water, energy, or other conservation measures, and/or, 3) in other cases when the imposition of mass limitations is appropriate.

**Sect. 9.2-5. - Pretreatment of Wastewater.**

(a) *Facilities*. Industrial users shall provide necessary wastewater treatment to comply with this Chapter, and shall achieve compliance with all categorical pretreatment standards, conform to the prohibitions specified in Section 9.2-4(a) within the time limitations established by the EPA, the State, the Authority and/or the Director, together with all limits of the County Montgomery County Public Service Authority and the Authority, whichever of the foregoing is the most stringent. Any facilities, physical or otherwise, necessary to pretreat wastewater to a level acceptable to the County Montgomery County Public Service Authority shall be provided, operated, and maintained at the industrial user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Director and the Authority for review, and shall be acceptable to the Director prior to construction or acquisition of the required facilities. The review and approval of such plans and/or operating procedures by the Director and/or the Authority shall not constitute the basis for relief or deviation from the industrial user's obligation to produce a discharge acceptable to the County Montgomery County



Public Service Authority under the provisions of this Chapter, including (without limitation) responsibility for making modifications in the facilities and/or changes in operating procedures.

(b) *Additional Pretreatment Measures*

- (1) Whenever deemed necessary, the Director may require industrial users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial waste streams, and such other conditions as may be necessary to protect the regional system and determine the industrial user's compliance with the requirements of this ordinance.
- (2) Grease, oil, and grit interceptors shall be provided when, in the opinion of the Director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or grit. All interception units shall be of type and capacity approved by the Director and shall be so located as to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the owner and/or user, at the expense of the owner and/or user.
- (3) Use of garbage disposal devices may be prohibited by the Director when, in the judgment of the Director, use of such devices will contribute to or cause the ~~County~~ Montgomery County Public Service Authority to exceed its allowable BOD and/or suspended solids load. Use of any garbage disposal devices having total motor power of 0.75 horsepower or greater shall require prior approval of the Director.
- (4) The Director is authorized to require industrial users having the reasonable potential of discharging flammable substances to the ~~County's~~ Montgomery County Public Service Authority's collection system to install and maintain an approved gas detection meter.

(c) *Accidental Discharge/Slug*

- (1) *Control Facilities and Plan.* The Director is authorized to require any industrial user to develop and implement an accidental discharge/slug control plan. At least once every two years the Director shall evaluate whether each significant industrial user needs such a plan. Any industrial user required to develop and implement an accidental discharge/control slug plan shall submit a plan which addresses at a minimum, the following:
  - a. Description of discharge practices, including non-routine batch discharges.
  - b. Description of stored chemicals.
  - c. Procedures for immediately notifying the Director and the regional system of an accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the discharges prohibited by Section 9.2-4 of this Chapter of the County Code.
  - d. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or

equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response. Users shall install such measures based on a reasonable schedule established by the Director. New users shall provide required measures as part of their pretreatment requirements and shall not be permitted to introduce pollutants into the ~~County's~~ Montgomery County Public Service Authority's system until implemented.

- (2) *Discharge Reporting.* Accidental and/or slug discharges shall be reported to the Director. The notification shall include location of the discharge, type of waste, concentration(s) and volume of discharge and corrective actions. Immediate notification must be followed with detailed written report to the Director within five (5) days describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the collection facilities or to the regional facility and system, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any civil or criminal penalties or liability which may be incurred under the provisions of this Chapter or other applicable law.
- (3) *Notice to Employees.* All permitted users shall permanently post a notice on the user's bulletin board or other prominent place advising employees whom to call in the event of an accidental/slug discharge. Employers shall insure that all employees who may cause or suffer such dangerous, accidental/slug discharges to occur are advised of the emergency procedure.
- (4) *Tenant Responsibility.* Where an owner of property leases premises to any other person as a tenant under any rental or lease agreement, if either the owner or the tenant is an industrial user, either or both shall be responsible for compliance with the provisions of this Section.
- (5) *Batch Hauled Wastewater.* Discharge of batch hauled wastewater to the ~~County's~~ Montgomery County Public Service Authority's collection system is prohibited. The discharge of hauled wastewater to the Authority's system shall be subject to the ~~rules and regulations of the Authority as embodied in its then current septage program,~~ requirements of the authority's approved pretreatment program or the same may be discharged to a special receiving facility approved by the Authority and the ~~County~~ Montgomery County Public Service Authority.
- (6) *Vandalism.* No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, tamper with or prevent access to any structure, appurtenance or equipment, or any other part of the ~~County's~~ Montgomery County Public Service Authority's collection system. Any person committing the foregoing acts shall be guilty of a Class 1 Misdemeanor subject to criminal prosecution as provided in Section 9.2-13 of this Chapter.

#### **Sec.9.2-6 - Wastewater Discharge Permit Eligibility.**

(a) *Survey.* All industrial users must submit to the Director information on the nature and characteristics of their wastewater by completing a wastewater survey prior to commencing their discharge. The Director is to provide a form for this purpose and may periodically require industrial users to update the survey. Failure to complete this survey shall be reasonable grounds for terminating service to the industrial user and shall be considered a violation of this Chapter.

(b) *Requirement.*

- (1) It shall be unlawful for any significant industrial user to discharge wastewater into the ~~County's~~ Montgomery County Public Service Authority's system without first obtaining a wastewater discharge permit from the Director. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this Chapter and subjects the wastewater discharge permittee to the sanctions set out in ~~the County's and~~ the Authority's Enforcement Response Plan. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal, State, Authority and County pretreatment standards or requirements or with any other requirements of Federal, State, and local law.
- (2) The Director may require other industrial users, including liquid waste haulers, to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance.

(c) *Permits for new connections.* Any significant industrial user proposing to begin or to recommence discharging industrial wastes into the ~~County's~~ Montgomery County Public Service Authority's system must obtain a wastewater discharge permit prior to the beginning or re-commencing of such discharge. Any application for such a wastewater discharge permit must be filed with the Director at least 180 days prior to the date upon which any discharge will begin unless the time period is shortened or lengthened by the Director in writing.

(d) *Extra jurisdictional industrial users.* Any existing significant industrial user, located beyond the County's jurisdictional boundary limits but discharging to the ~~County's~~ Montgomery County Public Service Authority's system shall have submit a wastewater discharge permit approved by the Director. ~~application, in accordance with Subsection (e) below, within 180 days of the effective date of this ordinance.~~ New significant industrial users located beyond the County's jurisdictional boundary limits proposing to discharge to the ~~County's~~ Montgomery County Public Service Authority's system shall submit an application for a permit for such discharge 180 days prior to any such proposed discharge.

(e) *Contents of application.* Any application for a wastewater discharge permit must contain the information required under section 9.2-8 of this chapter (Reporting Requirements), and, in addition, the Director is authorized to request additional information which, if not included in information required in section 9.2-8, includes (but is not limited to), the following:

- (1) Name, address and location (if different from address);
- (2) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;
- (3) Wastewater constituents and characteristics including, but not limited to, those mentioned in Section 9.2-4 of this Chapter as determined by a reliable

analytical laboratory. Sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended;

(4) Proposed time and duration of contribution;

(5) Average daily, 30 minute peak and slug wastewater flow rates, including daily, monthly and seasonal variations, if any;

(6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location, and elevation;

(7) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;

(8) A description of the nature and concentration of any pollutants in the discharge which are limited by any local, State, or Federal Pretreatment Standards, and a statement regarding whether or not the Pretreatment Standards are being met on a consistent basis and if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable Pretreatment Standards; and,

(9) If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. This schedule shall be subject to the following conditions:

a. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment facilities required for the user to meet the applicable Pretreatment Standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

b. Accomplishment of any increment referred to in Paragraph 1 shall not extend beyond a time period deemed reasonable by the Director, and in no event longer than nine (9) months.

c. No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Director including, as a minimum, whether or not it has complied with the increment of progress to be met on such date, and if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken to return the construction to the established schedule. The Director shall provide a copy of the schedule to the Authority's Executive Director as well as provide updates on the schedule and the progress reports submitted by the user. The Director shall establish the frequency with which such progress reports shall be made.

(10) Each of the applicant's products produced, by type, amount, process or processes used and the rate of production;

(11) Type and amount of raw materials processed (average and maximum per day);

(12) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;

(13) List of any materials on-site that are governed by RCRA that have the potential to enter the wastewater and a description of measures taken to protect against accidental discharge.

(14) Certification ~~as to whether or not the user is that the user is not~~ subject to the USEPA Categorical standards. ~~or if subject to Categorical Standards and certification and information required to 40 CFS 403.6(a)(1) and (2).~~

(15) List of other environmental permits held by the user, noting as a minimum, the agency, permit number, and enforcement action taken or pending against the user during the past year.

(16) Any other information as may be deemed by the ~~County~~ Montgomery County Public Service Authority to be necessary to evaluate the permit application. Incomplete or inaccurate applications will not be processed and will be returned by the Director to the industrial user for completion and/or revision.

(f) *Signatories and Certification.* All wastewater discharge permit applications and industrial user reports must contain the following certification statement and be signed by an authorized representative of the industrial user.

"I certify under penalty of perjury that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations." ~~which are intentional or committed with my knowledge."~~

(g) *Decisions.* The Director will evaluate the data furnished by the industrial user and may require additional information. Within 120 days of receipt of a complete wastewater discharge permit application, the Director will determine whether or not to issue a wastewater discharge permit. If no determination is made within this time period, the application will be deemed denied. If the Director denies a permit application orally or in writing, he shall provide the reasons for such denial.

#### **Sec. 9.2-7. Same – Issuance process.**

(a) *Duration.* Wastewater discharge permits shall be issued for a specified time period, not to exceed five (5) years. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Director. Each wastewater discharge permit will indicate a specific date upon which it will expire.

(b) *Contents.* Wastewater discharge permits shall include such conditions as are deemed reasonably necessary by the Director to prevent pass through or interference, protect the quality of the New River, Roanoke River, Little River and other receiving streams; protect worker health and safety, facilitate sludge management and disposal, protect ambient air quality, and protect against damage to the regional system.

(1) Wastewater discharge permits must contain the following conditions:

a. A statement that the wastewater discharge permit is nontransferable without prior notification to and approval from the ~~County~~ Montgomery County Public Service Authority, and

provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit.

b. Effluent limits applicable to the user based on applicable standards in Federal, State, or local laws or requirements.

c. Self monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, or local laws or requirements.

d. Reference to the portions of this Chapter relative to applicable civil, criminal and administrative penalties for violation of pretreatment standards and requirements, and of failure to comply with compliance schedules, which reference shall not be deemed to exclude the application of any Federal, State and local laws relevant to the subject matter (including those contained in this Chapter).

e. Compliance schedules shall not, in any event, extend the time of compliance beyond that required by applicable Federal, State or local laws or regulations.

(2) Wastewater discharge permits may contain, but need not include or be limited to the following:

a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.

b. Limits on the instantaneous, daily, and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.

c. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.

d. Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or routine discharges.

e. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the regional system.

f. The unit charge or schedule of industrial user charges and fees for the management of the wastewater discharged to the regional system.

g. Requirements for installation and maintenance of inspection and sampling facilities and equipment.

h. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit.

- i. Other reasonable conditions as deemed appropriate by the Director to ensure compliance with this Chapter, and State, Federal, and local laws, rules and regulations.
  - j. Requirements for notification of and future preventative action plans for slug and accidental discharges.
- (c) *Appeals.* Any person, including the industrial user, may petition the ~~County~~ Director to reconsider the terms of a wastewater discharge permit within thirty (30) days of its issuance. ~~The Petition shall be filed with the County Administrator.~~
  - (1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
  - (2) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
  - (3) The effectiveness of the terms of the wastewater discharge permit shall not be stayed pending the appeal.
  - (4) The ~~County Administrator~~ Director shall consider the petition and may take no action, respond to the petitioner in writing denying the relief requested or modifying the terms of the permit, or granting the relief requested. Failure of the ~~County Administrator~~ Director to take any action within sixty (60) days from the date the petition is filed shall be deemed to be a denial of the request for reconsideration. Decisions by the ~~County Administrator~~ Director denying a request for reconsideration, modifying or declining to modify the terms of the discharge permit, or granting the requests of the petition, shall be considered final administrative action for purposes of judicial review.
  - (5) Aggrieved parties seeking judicial review of the final administrative action on the wastewater discharge permit must do so by filing a petition for review and certiorari in the Circuit Court of the County of Montgomery, Virginia within thirty (30) days of the final administrative action, or if no action is taken, within ninety (90) days from the date the petition is filed. Upon the Court's order, all documentary and other matters considered in the administrative action shall be filed by the Director in the Office of the Clerk of the Circuit Court of the County of Montgomery, Virginia. No further pleading is required from the ~~County~~ Montgomery County Public Service Authority, and all allegations of the petition for review shall be deemed to be denied, although the ~~County~~ Montgomery County Public Service Authority may file a written response should it be so advised. The Court may:
    - a. Deny the petition for review and certiorari if, based on the pleadings, the court determines that the ~~County~~ Montgomery County Public Service Authority has not abused its authority, or acted unreasonably, arbitrarily or capriciously;
    - b. Grant the request for a writ of certiorari and issue such writ directing that the Director send the ~~County's~~ Montgomery County Public Service Authority's record on the matter to the Court for consideration;
    - c. If certiorari is granted, the Court, upon consideration of the record, may refuse to review the ~~County's~~ Montgomery County Public Service

Authority's action based upon the same determinations set forth in paragraph (5)a. above.

d. Grant a hearing and receive evidence and testimony relative to the issue. Unless the Court finds that the ~~County~~ Montgomery County Public Service Authority abused its authority, or acted unreasonably, arbitrarily or capriciously, the ~~County's~~ Montgomery County Public Service Authority's administrative action shall be sustained. If the Court finds that the ~~County~~ Montgomery County Public Service Authority acted unreasonably, arbitrarily or capriciously, or abused its authority, it shall direct that the matter be returned to the ~~County~~ Montgomery County Public Service Authority for further consideration and action not inconsistent with the Court's findings. Such an order shall, for purposes of appeal, be deemed to be a final order. If the issues have been adjudicated beyond possibility of further appeal, and any party (including the ~~County~~ Montgomery County Public Service Authority) has or does fail to comply or conform its actions to the judicial decisions, any aggrieved party may apply to the same Court for enforcement of the judicial mandate.

(d) *Modification.* The ~~County~~ Montgomery County Public Service Authority may modify the wastewater discharge permit for good cause including, but not limited to, the following:

- (1) To incorporate any new or revised Federal, State, Authority or local pretreatment standards or requirements.
- (2) To address significant alterations or additions to the industrial user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance.
- (3) A change in the regional system that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- (4) The receipt of information indicating that the permitted discharge poses a threat to personnel, any ~~river~~ water body in the County or the regional system.
- (5) Violation of any terms or conditions of the wastewater discharge permit.
- (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting.
- (7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13 or local limits.
- (8) To correct typographical or other errors in the wastewater discharge permit.
- (9) To reflect a transfer of the facility ownership and/or operation to a new owner/operator.

The filing of an application for modification of a wastewater discharge permit by the permittee is not sufficient to stay, modify or alter any permit condition.

(e) *Transfer.* Wastewater discharge permits may be reassigned or transferred to a new owner and/or operation only if the permittee gives at least fourteen (14) days advance notice to the Director, and the express written approval of the ~~County Administrator~~ Director is given. The notice of transfer and request for approval must include a written certification by the proposed transferee which:



- (1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes, or specifies the changes which it proposes to make.
- (2) Identifies the specific date on which the transfer is proposed to occur.
- (3) Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide the advance notice of proposed transfer and request for written approval of the ~~County~~ Director shall render the discharge permit voidable by the ~~County~~ Director without prior notice, effective on the date the facility is transferred to a new owner.

- (f) *Revocation.* Wastewater discharge permits may be revoked on the following grounds:
  - (1) Failure to notify the ~~County~~— Montgomery County Public Service Authority of significant changes to the wastewater prior to the changed discharge.
  - (2) Failure to provide prior notification to the ~~County~~ Montgomery County Public Service Authority of changed condition pursuant to Section 9.2-8 of this Chapter.
  - (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application.
  - (4) Falsifying self-monitoring reports.
  - (5) Tampering with monitoring equipment.
  - (6) Refusing to allow the ~~County~~ Montgomery County Public Service Authority or the Authority timely access to the facility premises and records.
  - (7) Failure to meet effluent limitations.
  - (8) Failure to pay fines.
  - (9) Failure to pay sewer charges or permit fees.
  - (10) Failure to meet compliance schedules.
  - (11) Failure to complete a wastewater survey or the wastewater discharge permit application.
  - (12) Failure to provide advance notice of the transfer of a permitted facility.
  - (13) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or the ordinance.
  - (14) Failure of a user to factually report the wastewater constituents and characteristics of his discharge.
  - (15) Failure of the user to report significant changes in operations, or wastewater constituents and characteristics.
  - (16) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring.
  - (17) Violation of conditions of the wastewater discharge permit; or
  - (18) Nonpayment of any surcharges.

Upon revocation of a wastewater discharge permit, the permittee and/or user shall forthwith cease discharge into the ~~County's~~— Montgomery County Public Service Authority's collection system. Upon failure to cease such discharge after revocation, the ~~County~~ Montgomery County Public Service Authority may take whatever steps are necessary, including legal recourse, to terminate such discharge, and this remedy shall be

in addition to all other civil and criminal remedies with which the ~~County~~ Montgomery County Public Service Authority may be vested.

(g) *Voidable permits for non-use, permits voided upon issuance of new permit.*

(1) Wastewater discharge permits shall be voidable by the ~~County~~ Montgomery County Public Service Authority upon non-use for one (1) year, cessation of operations for which the permit was issued, and for transfer of ownership of the facilities of the permittee without transfer of the permit with the written approval of the ~~County Manager~~ Director.

(2) Upon issuance of a new wastewater discharge permit for the same purposes and facilities shall automatically revoke the replaced permit.

(h) *Reinstatement.* Once a permit has been revoked or declared to be void, it may be reinstated:

(1) If declared void under subsection (g) above, upon written application for reinstatement which shall include all information required for an original application and subject to the same criteria as an original application.

(2) If revoked, upon written application of the permittee, which shall also include written proof that the non-complying discharge has been eliminated either by a change in process, change in pretreatment or institution of pretreatment, or any other means necessary. No permit shall be reinstated until all fees, fines and/or other charges assessed against the user have been paid.

(i) *Reissuance.*

(1) *Application* - an industrial user requesting the reissuance of a wastewater discharge permit shall submit a complete wastewater discharger permit application in accordance with section 9.2-7 a minimum of ninety (90) days prior to the expiration of the user's existing permit.

(2) *Permit Continuance* - The ~~County~~ Montgomery County Public Service Authority may extend the expiration date of a permit for up to six months if it is believed that extension of time is needed to resolve permit issues and the existing permit conditions will not result in pass-through, interference, or violations of the Authority's VPDES permit conditions.

(j) *Municipal Agreements-Regulation of Water from another Jurisdiction.* ~~In the event another political subdivision contributes all or a portion of its wastewater to the County's system, the County may require such entity to apply for and obtain a significant industry wastewater discharge permit. If another municipality or user located within the other jurisdictions contributes industrial waste to the POTW, the Director shall enter into an intermunicipal agreement with the contributing municipality. The municipal agreement shall provide for full implementation of the MCPSA's approved pretreatment program within the contributing jurisdiction.~~

#### **Sec. 9.2-8. Reporting Requirements.**

(a) *Baseline Monitoring Reports.*

(1) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing significant industrial users subject to such categorical pretreatment

standards, and currently discharging to or scheduled to discharge to the ~~County's~~ Montgomery County Public Service Authority's system, shall be required to submit to the ~~County~~ Director a report which contains the information listed in Subparagraph ~~B~~ (a)(2), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become ~~industrial~~ categorical users subsequent to the promulgation of an applicable categorical standard, shall also be required to submit to the ~~County~~ Director a report which contains the information listed in Subsection (a)(2), below. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable pretreatment standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

(2) The industrial user shall submit documentation and information as follows:

- a. *Identifying Information:* The name and address of the facility including the name of the operator and owners.
- b. *Environmental Permits:* A list of any environmental control ~~wastewater-discharge~~ permits held by or for the facility.
- c. *Description of Operation:* A brief description of the nature, average rate of production, and standard industrial classifications of the operations(s) carried out by such industrial user. This description should include a schematic process diagram which indicates points of discharge to the ~~County~~ Montgomery County Public Service Authority from the regulated processes.
- d. *Flow Measurement:* Information showing the measured average daily and maximum daily flow, in gallons per day, to the ~~County~~ Montgomery County Public Service Authority from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).
- e. *Measurement of Pollutants.*
  1. Identify the categorical pretreatment standards applicable to each regulated process.
  2. Provide the results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or by the ~~County~~ Director) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long term average concentrations (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in subsection (j) of this section.
  3. Sampling must be performed in accordance with procedures set out in subsection (k) of this section.
- f. *Certification:* A statement reviewed by the industrial user's authorized representative and certified by a qualified individual acceptable to the Director, indicating whether pretreatment standards are being met on a consistent basis, and if not, whether additional operation and maintenance (O&M) and/or additional

pretreatment is required to meet the pretreatment standards and requirements.

- g. *Compliance Schedule:* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the industrial user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standards. A compliance schedule pursuant to this Section must meet the requirements set out in subsection (b) of this Section.

(b) *Compliance Schedule Progress Reports.* The following conditions shall apply to the schedule required by subsection (a)(2) g of this Section. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (which events include hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, beginning and conducting operation). No increment referred to above shall exceed a reasonable time as determined by the Director, and shall in no event exceed nine (9) months. The industrial user shall submit a progress report to the Director no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, (and if appropriate) the steps being taken by the industrial user to return to the established schedule. In no event shall more than nine (9) months elapse between such progress reports to the Director.

(c) *Report on Compliance with Categorical Pretreatment Standard Deadline.* Within ninety (90) days following the date for the final compliance with applicable pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the ~~County's~~ Montgomery County Public Service Authority's system, any industrial user subject to such pretreatment standards and requirements shall submit to the ~~County~~ Director a report containing the information described in subsection (a)(2) of this Section. For industrial users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the industrial user's long term production rate. For all other industrial users subject to pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the industrial user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 9.2-6(f) of this Chapter.

- (d) *Periodic Compliance Reports.*

(1) Any significant industrial user subject to a pretreatment standard shall, at a frequency determined by the Director but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by such pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section 9.2-8.

(2) All wastewater samples must be representative of the industrial user's discharge. Wastewater monitoring and flow measurement facilities shall be properly

operational, kept clean, and maintained in good working order at all times. The failure of an industrial user to keep its monitoring facility in good working order shall not be grounds for the industrial user to claim that sample results are unrepresentative of its discharge.

(3) If an industrial user subject to the reporting requirement in and of this Section monitors any pollutant more frequently than required by the ~~County~~ Director, using the procedures prescribed in subsections (j) and (k) of this Section, the results of this monitoring shall be included in the report.

(e) *Report of Changed Conditions.* Each industrial user is required to notify the Director of any planned significant changes to the industrial user's operations or system which might alter the nature, quality or volume of its wastewater at least sixty (60) days before the change.

- (1) The Director may require the industrial user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application.
- (2) The Director may issue a wastewater discharge permit or modify an existing wastewater discharge permit as provided in this Chapter.
- (3) No industrial user shall implement the planned changed condition(s) until and unless the Director has responded to the industrial user's notice.
- (4) For purposes of this requirement, flow or pollutant mass of ten percent (10%) or greater, and/or the discharge of any previously unreported pollutants, shall be deemed significant.

(f) *Reports of Potential Problems.*

- (1) In the case of any discharge (including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge or a slug load) which may cause potential problems for the regional system (including a violation of the prohibited discharge standards of Section 9.2-4 of this Chapter), it is the responsibility of the industrial user to immediately telephone and notify the Director of the incident. This notification shall include the location of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the industrial user.
- (2) Within five (5) days following such discharge, the industrial user shall submit a detailed written report described the cause(s) of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the ~~County~~ Montgomery County Public Service Authority or regional system, natural resources, or any other damage to person or property; nor shall such notification relieve the industrial user of any fines, civil penalties, or other liability which may be imposed by this ordinance. The Director may waive this requirement for nonsignificant industrial users.
- (3) Failure to notify the Director of potential problem discharges shall be deemed a separate violation of this ordinance.
- (4) A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph A (f)(1), above. Employers shall

ensure that all employees, who may cause or suffer such a discharge to occur, are advised of the emergency notification procedure.

(g) *Reports from Nonsignificant Industrial Users.* All industrial users not subject to categorical pretreatment standards and not required to obtain a wastewater discharge permit shall provide appropriate reports to the ~~County as the~~ Director. ~~may require.~~

(h) *Notice of Violation/Repeat Sampling and Reporting.* If sampling performed by an industrial user indicates a violation, the industrial user must notify the Director within 24 hours of becoming aware of the violation. The industrial user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Director within 30 days after becoming aware of the violation.

(i) *Notification of the Discharge of Hazardous Waste.*

(1) Any industrial user who commences the discharge of hazardous waste shall notify the ~~County, Director, the Authority, the state water control board~~ the Department of Environmental Quality, and other appropriate State hazardous waste authorities in writing of any discharge into the ~~County's~~ Montgomery County Public Service Authority's or regional system of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR, Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the industrial user discharges more than 15 kilograms of such waste per calendar month to the ~~County's~~ Montgomery County Public Service Authority's system, the notification shall also contain the following information to the extent such information is known and available to the industrial user, i.e.: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months. In addition, both the monthly and yearly estimate shall also include an estimation of the maximum mass and constituents that are expected on a daily basis. All notifications must take place no later than 30 days after the discharge commences. A discharge that may have an adverse effect on the ~~County's~~ Montgomery County Public Service Authority's system or the regional system must be reported immediately in accordance with the above provisions. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted as required in subsection (e), ~~(f) and (i)~~ of this section. The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of subsections (a), (c) and (d) of this section.

(2) Dischargers are exempt from the requirements of subsection (a) of this Section during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous

wastes in a calendar month, or any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires notification for each month of occurrence.

- (3) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste are adopted, the industrial user must notify the County Director, the Authority, ~~the EPA Regional Waste Management Waste Chapter Director~~, the Department of Environmental Quality ~~state water control board~~, and other appropriate state hazardous waste authorities of the discharge of such substances within thirty (30) days of the effective date of such regulations.

- (4) In the case of any notification made under this Section, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(j) *Analytical Requirements.* All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the County Director, the Authority and the EPA.

- (k). *Sample Collection.*

- (1) Except as indicated in Section ~~B-(k)(2)~~, below, the industrial user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is not feasible, the Director may authorize the use of time proportional sampling or through a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

- (2) Samples for oil and grease, temperature, ph, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(1) *Determination of Noncompliance.* The Director may use a grab sample(s) to determine noncompliance with pretreatment standards.

(m) *Timing.* Written reports will be deemed to have been submitted on the date postmarked. For reports which are not delivered by U.S. Postal Service prepaid, the date of receipt of the report shall govern. Postage on all reports must be prepaid.

(n) *Record Keeping.* Industrial users shall retain, and make available for inspection and copying, all records and information required to be retained under this Chapter. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning compliance with this Chapter of the Montgomery County Code, or where the industrial user has been specifically notified of a longer retention period by the Director.

#### **Sec. 9.2-9. Compliance Monitoring.**

(a) *Scheduled.*

- (1) Industrial users holding a discharge permit shall be subject to a scheduled monitoring of its effluent discharge prior to entering the County's collection facilities at least once each year. The Director shall collect and analyze the sample which shall be analyzed for all applicable Pretreatment Standards and/or the applicable parameters contained in Section ~~21-481~~ 9.2-4 of this Chapter, as determined by the Director. All analysis, if applicable, shall be of 24 hour composite samples unless the user operates less than 24 hours per day, in which case the length of the composite shall be based on the length of operation. All analyses and sampling shall be in accordance with procedures set forth in 40 CFR, Part 136, if applicable, or as approved by the ~~County Director~~, and the Authority, and the EPA.
- (2) Any user shall be granted the opportunity to split samples during any scheduled monitoring operation. The ~~County Director~~ shall provide copies of all analytical results to the industrial user and to the Authority within ten (10) days of receipt of the analytical results. All cost required to meet the conditions of this section shall be the responsibility of the industrial user.
- (3) The industrial user is required to provide and to operate at its own expense, sampling and monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal permitted drainage systems. The monitoring facility should normally be situated on users premises, but the Board of Supervisors of the County may, but is not obligated to, allow such facility to be established in the public street right-of-way or sidewalk area, located so as to be free of obstruction by landscaping or parked vehicles, in cases in which undue hardship would be caused to the user by location on the user's premises, or such location is impractical. There shall be ample room in or near such monitoring facilities to allow sampling and preparation of samples for analysis. The facility, and sampling/measurement equipment, where applicable, shall be maintained at all times in a safe and proper operating condition at the expense of the user.
- (4) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the ~~County's~~ Montgomery County Public Service Authority's requirements and all applicable local construction standards and specifications shall apply. Construction of control manholes for existing applicable nonresidential users shall be completed within 90 days following written notification by the Director that such manhole(s) is required.

(b) *Unscheduled.* Industrial users subject to the requirement of subsection (a) of this Section shall also be subject to unscheduled monitoring of its effluent discharge prior to entering the collection facilities at least once each year. The ~~County~~ Montgomery County Public Service Authority will collect and analyze the sample(s) for the identical parameters analyzed under subsection (a) above. All samples shall be 24 composite samples, if applicable, unless the user operates less than 24 hours per operation. All analyses and sampling shall be in accordance with 40 CFR, Part 136, if applicable, or as approved by the ~~County Director~~ and the Authority. The ~~County Director~~ will shall



provide copies of all analytical results to the industrial user and to the Authority within ten (10) days of receipt of the analytical results. All costs required to meet the conditions of this Section shall be borne by the industrial user. Any user may be granted the opportunity to split samples during any scheduled monitoring operation.

(c) *Demand.* Demand monitoring will be performed by the ~~County~~ Montgomery County Public Service Authority in response to a known or suspected violation discovered as a result of previous monitoring, operational difficulties within the collection facilities or regional facility, public complaint, reported violations, etc. Sampling will be initiated immediately upon the known or suspected occurrence. Demand monitoring may consist of grab or composite samples and any user may be offered the opportunity of splitting samples. All sampling and reporting as required by this subsection shall be performed at the offending industrial user's expense.

(d) *Inspection and Sampling.* The ~~County~~ Montgomery County Public Service Authority and/or the Authority shall have the right to enter the facilities of any user to ascertain whether the purposes of this Chapter of the Montgomery County Code, and any permit or order issued hereunder, is being met and to determine whether the user is complying with all requirements thereof. Users shall allow the Director and/or the Executive Director of the Authority, or their representative, access to all parts of the premises for the purpose of inspection, sampling, records examination and copying, and the performance of any additional duties deemed appropriate by the person or persons performing the enumerated tasks.

- (1) Where an industrial user has security measures in force which require proper identification and clearance before entry into its premises, the industrial user shall make necessary arrangements with its security personnel so that, upon presentation of suitable identification, personnel from the ~~County~~ Montgomery County Public Service Authority or the Authority, and from State authorities and EPA, will be permitted to enter without delay for the purposes of performing their specific responsibilities.
- (2) The ~~County~~ Montgomery County Public Service Authority and the Authority, as well as State and EPA representatives, shall each have the right to set up or require installation of, on the industrial user's property, such devices as are necessary to conduct sampling and/or metering of the user's operations.
- (3) The ~~County~~ Montgomery County Public Service Authority may require the industrial user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the industrial user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at least annually to ensure their accuracy.
- (4) Any temporary or permanent obstruction to safe and easy access to the industrial facility to be inspected and/or sampled shall be promptly removed by the industrial user at the written or verbal request of the Director and shall not be replaced. The costs of clearing such access shall be borne by the industrial user.
- (5) Unreasonable delays in allowing ~~County~~ Montgomery County Public Service Authority personnel access to the industrial user's premises shall be a violation of this Chapter and shall be a Class 3 Misdemeanor.

(e) *Search Warrants and/or Judicial Orders for Entry.* If access to a building, structure, facility or property has been denied to the Director or other person mentioned in Subsection (d) above, and if probable cause to believe there may exist a violation of this Chapter has been demonstrated, or that there is a need to inspect the facilities as part of a routine inspection program of the ~~County~~ Montgomery County Public Service Authority designed to verify compliance with this Chapter or any permit or order issued pursuant to this Chapter, or to protect the overall health, safety and welfare of the community, then the Director, or other person to whom the right of entry is provided by this Section, may seek from an authorized magistrate, if a search warrant is sought, or from the Judge of the Circuit Court of the County of Montgomery, Virginia, if a search warrant or order for entry is sought, a search warrant or other appropriate order or injunction directing that the industrial user is prohibited from denying such access. The specific property, building, structure or facility to which access is sought shall be identified in any case, and if a search warrant is issued, it shall specify and identify the things to be searched for and/or seized. In the event of an emergency threatening the public health and safety exists on the property, structure, building or facility, then the Director or his representative, and emergency service personnel, may enter the premises and take emergency corrective action without a search warrant or court order.

#### **Sec. 9.2-10. Proprietary and confidential information.**

(a) Information and data on an industrial user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from inspection and sampling activities, shall be available to the public without restriction unless the industrial user specifically requests, and is able to demonstrate to the satisfaction of the Director, that the release of such information would divulge information, processes or methods of production entitled to protection as proprietary information or trade secrets under applicable Virginia or Federal law. The request to withhold information from public access shall be made as part of the initial submission. When requesting that such information be withheld from public access, the industrial user shall furnish a detailed report, which documents and demonstrates that the information should not be publicly disclosed, which report shall be filed with the Director. If the Director determines that the information which the industrial user desires to withhold from public inspection might disclose protected proprietary information, trade secrets, processes and/or technology, then the information shall not be made available for public access and inspection, but shall be made available immediately upon request to government agencies for uses related to the VPDES program including the pretreatment program and in enforcement proceedings involving the person furnishing the report. Any person aggrieved by the Director's determination, with standing before the court, may seek judicial relief from such determination in the circuit court of the county.

(b) It shall be the industrial user's responsibility to prepare both the confidential and public reports required under this Chapter of the Montgomery County Code in a manner by virtue of which such reports are accurate, comprehensive and complete.

(c) Wastewater constituents and characteristics, and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction, notwithstanding any other provision of this section.

**Sec. 9.2-11. Publication of Industrial Users in Significant Noncompliance.**

The Authority is authorized to publish annually, in the largest daily a newspaper of general circulation in the Authority's service area, a list of industrial users which, during the preceding twelve (12) months, have been in significant non-compliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of wastewater measurements for any pollutant parameter taken during a six-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
- (2) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of wastewater measurements taken for each pollutant parameter during a 6 month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria 1.4 for BOD, TSS, fats, O&G and 1.2 for all other pollutants except pH;
- (3) Any other discharge violation that the ~~County~~ Director reasonably believes has caused, alone or in combination with other discharges, interference or pass through including endangering the health of POTW personnel or the general public;
- (4) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the exercise by the County or the Authority of its emergency authority to halt or prevent such a discharge;
- (5) Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide within 30 days after the due date, any required reports, including baseline monitoring reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance;
- (8) Any other violation(s) which the Director determines will adversely affect the operation or implementation of the ~~County's~~ Montgomery County Public Service Authority's pretreatment program.

**Sec. 9.2-12. Administrative enforcement remedies.**

(a) *Notification of Violation.* Whenever the Director determines that any user has violated or is violating any provision of this chapter of the County Code, the terms of a wastewater discharge permit, any order issued pursuant to the provision of this chapter, or any other pretreatment requirement, the Director or his agent will give written notice of violation to the user. Within ten (10) days after receipt of such notice, unless the same has already been submitted, the user shall provide to the Director a complete written explanation relative to the violations and a plan for action to correct the violation and to prevent future violations, including specific proposed action and a time schedule for accomplishing the same. The Director may approve the plan, approve it with modifications, or disapprove it. If disapproved, a new plan shall be submitted by the user

within five (5) days of disapproval. If approved with modifications, the user shall advise the Director that it accepts or rejects the modifications, and if rejected, a new plan shall be submitted within five days. Any plan which is approved, or approved with modifications accepted by the user, shall be implemented by the user on a schedule approved by the Director. Submission of a plan shall not serve to relieve the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this subsection shall limit the right of the County or the Montgomery County Public Service Authority to take any action, including emergency and other enforcement action, without having first issued a Notice of Violation.

(b) *Consent Orders.* After consulting with the Montgomery County Public Service Authority, the Board of Supervisors of the County may agree with any user ~~for a~~ on a plan of any action through a consent order or consent orders, assurances of voluntary compliance, or other similar agreements, relative to the users noncompliance with the provisions of this chapter. Such orders, assurances or agreements will include consent or agreement on specific action to be taken by the user to correct noncompliance within a specified period of time and on a specific schedule. Such orders, assurances and/or agreements shall have the same force and effect as administrative orders issued pursuant to Subsections (d) and (e) of this section and specific enforcements of the terms and provisions of the same may be sought in the Circuit Court of the County, or such other judicial form having jurisdiction in the premises.

(c) *Show Cause Hearing.* The Board of Supervisors of the County may, but is not obligated to, issue an order to any user causing or contributing to violation(s) of the terms of any wastewater discharge permits, or the provisions of this chapter of the County Code, or failing to comply with any administrative orders issued pursuant to the provisions of this chapter, or any pretreatment standard or requirement, to appear at a time and place specified in the order before the Board of Supervisors or a hearing officer designated by the Board of Supervisors for the purpose, to show cause why a contemplated enforcement action should not be taken. The order, which shall be delivered or mailed certified mail to the user at the users last known address at least five (5) days before the hearing, shall also provide notice of the enforcement action contemplated and the reasons for such action. Although the County is not obligated to conduct a show cause hearing as a prerequisite for taking action against the user, it may do so and immediately following any such hearing (if held), whether or not the user has appeared, enforcement may be pursued as provided in this Section.

If a user has been notified of contemplated enforcement action (which may occur without any such notice), such user may request a show cause hearing before the County Board of Supervisors or one of its hearing officers designated for the purpose, which request may be granted or denied at County Board of Supervisor's sole discretion.

(d) *Compliance Orders.* If a show cause hearing is conducted, and if the Board of Supervisors, after consulting with the Montgomery County Public Service Authority, finds that the user has violated or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Board of Supervisors may issue an order to the user or users responsible for the violation(s) directing that the user who caused the violation(s) cease and bring its facilities into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued by the Montgomery County Public Service Authority unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated.

Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a federal, state, County or for the Authority's pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite to taking any other action against the user.

(e) *Cease and Desist Orders.*

In conjunction with the order mentioned in subsection (d) of this section, and consistent with the findings relative to the violations, the Board of Supervisors may, after consulting with the Montgomery County Public Service Authority, include in its order a direction to the user to cease and desist such violation(s), and to immediately comply with the requirements specified in the order, and to take remedial or preventive action to address any continuing or threatened violations, including terminating any offending discharge or halting its operations, if necessary. Issuance of a cease and desist order shall not be a prerequisite to taking any other action against the user.

(f) *Remedial action plans.* In addition to the foregoing remedies, if the Director determines that a violation has occurred or a violation is continuing, he may develop and issue a remedial plan containing a description of the nature of the violation(s) or deficiencies, an enumeration of action to be taken by the user, and a time schedule for achieving compliance. Issuance of remedial plans may, but are not required to, be issued in conjunction or simultaneously with the orders mentioned in Subsections (c), (d) and (e) of this section. Where the user fails to satisfy the terms and times of the remedial plan, the County, upon reasonable prior notice, may instruct the Montgomery County Public Service Authority to refuse to accept any waste discharges from the user. The Director may, after receiving concurrence from the County, for reasons deemed sufficient to said Director, grant extensions of time for full compliance with the remedial plan.

(g) *Emergency Suspensions.* The Director may immediately suspend a user's discharge (without notice or by informal notice to the user) whenever such suspension is necessary in order to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Director may also immediately suspend a user's discharge which threatens to interfere with the operation of the ~~County's~~ Montgomery County Public Service Authority's system and/or the regional system, or which presents or may present an immediate endangerment to the environment. The Director shall notify the County of any suspensions under this subsection.

(1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the ~~County~~ Montgomery County Public Service Authority's systems, the regional system, to any water body ~~rivers of~~ in Montgomery County, or endangerment to any individuals or the environment. The Director shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Director that the cause or period of endangerment has passed, unless the termination proceedings set forth in Subsection (h) of this section are initiated against the user.

(2) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Director prior to the date of any show cause or termination hearing under subsections (c) and (h) of this section.

(3) The user shall pay all fees, fines, damages, surcharges and costs occurred as a result of any harmful contribution.

Nothing in this subsection shall be interpreted as requiring a hearing prior to any emergency suspension.

(h) *Termination of Discharge.* In addition to those provisions in subsection (f) of Section 9.2-7 of this chapter, the Montgomery County Public Service Authority may issue a discharge termination order to any user that violates the following conditions, the terms of wastewater discharge permits, or orders issued hereunder: is subject to discharge termination:

(1) Violation of wastewater discharge permit conditions.

(2) Failure to accurately report the wastewater constituents and characteristics of its discharge.

(3) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.

(4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.

(5) Violation of the pretreatment standards in Section 9.2-4 of this chapter or any other section of this chapter.

Unless emergency termination is necessary, the user will be given reasonable notice by the Montgomery County Public Service Authority of the proposed termination, and may be offered an opportunity to show cause to the Board of Supervisors of the County why such action should not be taken. Whether or not to grant such hearing rests in the sole discretion of the Board of Supervisors of the County.

### **Sec. 9.2-13. Judicial Enforcement Remedies, Penalties.**

(a) *Injunctive Relief.* Whenever a user has violated a pretreatment standard or requirement or continues to violate the provisions of this chapter, the terms of any wastewater discharge permits, or orders issued hereunder, or any other pretreatment requirement, the Montgomery County Public Service Authority may request the County may to petition the Circuit Court of the County, or such other court with jurisdiction, for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this chapter on activities of the industrial user. The Montgomery County Public Service Authority may request the County to seek such other action as appropriate for legal and/or equitable relief. ~~may also be sought by the County.~~ A petition for injunctive relief need not be filed as a prerequisite to taking any other appropriate or authorized action against the user.

(b) *Civil Penalties.*

(1) Any user violating or continuing to violate the provisions of this chapter of the County Code, or the terms and conditions of any wastewater discharge permit, or any other pretreatment standard or requirement, shall be liable to the County of Montgomery, Virginia for a maximum civil penalty of up to ten thousand dollars (\$10,000) for each day of violation, provided, however, in cases involving monthly or long term average discharge limits, penalties shall accrue for each of the periods of violations, each such period (daily or otherwise) to constitute a separate offense.

(2) The County may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses incurred by the County or the Montgomery County Public

Service Authority, and the cost of any actual damages incurred by the County and the Montgomery County Public Service Authority.

(3) In determining appropriateness of the amount of civil liability, the County and/or the court shall take into account all relevant circumstances, including but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(4) Suits for assessment, enforcement and collection may be instituted in any court with jurisdiction in the premises, but initiation of proceedings for assessment, enforcement or collection of civil penalties shall not be a prerequisite or condition for any other enforcement or other action against the user.

(c) *Criminal Prosecution.*

(1) Any user who willfully or intentionally violates any provision of this chapter, any orders or wastewater discharge permits issued hereunder, or any other pretreatment requirement shall, upon conviction, be guilty of a Class 1 misdemeanor, punishable as hereinafter provided.

(2) Any user who willfully or negligently introduces any substance into the ~~County's~~ Montgomery County Public Service Authority's system which causes personal injury or property damage shall, upon conviction, be guilty of a Class 1 misdemeanor, and upon conviction shall be punished as hereinafter provided.

(3) Any user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other documentation files, or required to be maintained, pursuant to this ordinance, wastewater discharge permit or order, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this ordinance shall be guilty of a Class 2 misdemeanor punishable as hereinafter provided.

(4) Each day any violation of section 9.2-3 through section 9.2-12, inclusive, of this chapter of the County Code continues shall constitute a separate offense.

(5) Whenever a violation of sections 9.2-3 through 9.2-12, inclusive, is stated to be a Class 1, 2, 3, or 4 misdemeanor, or when such violation is punishable as a Class 1, 2, 3 or 4 misdemeanor, the punishments therefore upon conviction shall be:

a. For Class 1 misdemeanors, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.

b. For Class 2 misdemeanors, confinement in jail for not more than six months and a fine of not more than one thousand (\$1,000.00), either or both.

c. For Class 3 misdemeanors, a fine of not more than five hundred dollars (\$500.00).

d. For Class 4 misdemeanors, a fine of not more than two hundred fifty dollars (\$250.00).

e. If a single offense is punishable under more than one (1) of the classes specified in this subsection (c)(5), then punishments provided for the more serious class shall apply.

(d) *Remedies Cumulative.* The remedies provided in Section 9.2-11 through Section 9.2-13 of this chapter are not exclusive remedies, and the County reserves the right to pursue any, all, or any combination of such actions against a user not in

compliance or which violates any of the mandates and requirements of this chapter. Enforcement of pretreatment requirements or violation thereof will generally be consistent with the then current enforcement and response plan of the Authority. However, the County reserves the right to take other action against any user when the circumstances warrant. Further, the County is empowered to take more than one enforcement action against any noncompliant user, and all actions may be taken concurrently.

#### **Sec. 9.2-14. Supplemental enforcement action.**

(a) *Performance Bonds.* The Director may decline to reissue a wastewater discharge permit to any user which has failed to comply with the provisions of this chapter, of any orders, or any provisions of previous wastewater discharge permit, unless such user first files a satisfactory bond, payable to the County, in a sum determined by the Montgomery County Public Service Authority and the County to be necessary to achieve consistent compliance, conditioned for compliance with all lawful requirements. The period of the bond shall not be less than five (5) years, unless the period of time is shortened or waived by the ~~county administrator~~ Director.

(b) *Financial Assurance; Liability Insurance.* The Director may decline to reissue a wastewater discharge permit to any user which has failed to comply with the provisions of this chapter, or of any order, or the terms and provisions of a previous wastewater discharge permit, unless the user first submits proof that it has obtained financial assurances, through insurance or otherwise, sufficient to restore or repair damage to the ~~County~~ Montgomery County Public Service Authority's system or the regional system which could be or has been caused by an improper discharge.

In addition, the Director may require evidence of a liability insurance policy on which the user is the named insured, insuring against future damages to the systems due to improper discharge. Such insurance, if required, shall continue for a period of at least five (5) years, unless such period is shortened or waived by the ~~County Administrator~~ Director. Notwithstanding the foregoing, the Director may require that the bond and/or the liability insurance continue for longer than five (5) years.

(c) *Water Supply Severance.* Whenever a user has violated or continues to violate the provisions of this chapter, any orders, or provisions of wastewater discharge permits issued hereunder, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply with the provisions of this chapter.

(d) *Public Nuisance.* Any violation of the provisions of ~~Section 9.2-13 through Section 9.2-22~~ of this chapter and article, or violation of the provisions of any wastewater discharge permits, or orders issued hereunder, is hereby declared to be a public nuisance and shall be corrected or abated as directed by the Director or his designee. Any person(s) creating a public nuisance shall be subject to the provisions of Chapter 9.2 of the Montgomery County Code and all applicable laws of the Commonwealth of Virginia governing or relating to nuisances.

#### **Sec. 9.2-16. Miscellaneous Provisions.**

(a) *Pretreatment Charges and Fees.* The ~~county~~ Montgomery County Public Service Authority shall ~~will~~ adopt charges and fees for reimbursement of costs of setting up and operating its pretreatment program which shall be payable to the Montgomery County Public



Service Authority by the industrial users of its collection system, and which may include the following:

- (1) Fees for wastewater discharge permit applications, including the cost of processing such applications.
- (2) Fees for monitoring, inspection, and surveillance procedures, including the cost of collection and analyzing an industrial user's discharge, and reviewing monitoring reports submitted by industrial users.
- (3) Fees for reviewing and responding to accidental discharge procedures and construction.
- (4) Fees for filing appeals.
- (5) Other fees as the ~~county may~~ Montgomery County Public Service Authority deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this chapter of the County Code, and are separate from all other fees, fines and penalties lawfully chargeable or imposed by the County or the Montgomery County Public Service Authority.

(b) *Severability.* If any provisions of section 9.2-3 through 9.2-6 inclusive, of this chapter are invalidated by a court of competent jurisdiction beyond possibility of further appeal, the remaining provisions shall be severed from the offending provision and shall remain in full force and effect.

(c) *Conflicts.* All other provisions of the County Code and other ordinances of the County inconsistent or in conflict with any of the provisions of sections 9.2-3-through 9.2-6 of this chapter are hereby repealed or modified to the extent of such inconsistency or conflict, but otherwise to remain in full force and effect.

The vote on the foregoing ordinance was as follows:

AYE

John A. Muffo  
Mary W. Biggs  
Doug Marrs  
Steve L. Spradlin  
Gary D. Creed  
Annette S. Perkins  
James D. Politis

NAY

None

**R-FY-05-72**  
**A RESOLUTION AUTHORIZING**  
**THE APPROVAL OF A MEMORANDUM OF UNDERSTANDING**  
**PERMITTING THE ESTABLISHMENT**  
**OF A VOLUNTEER SERVICE PROGRAM**  
**FOR THE MONTGOMERY COUNTY**  
**ANIMAL CARE AND CONTROL SHELTER**

On a motion by Mary W. Biggs, seconded by Doug Marrs and carried unanimously,

WHEREAS, The Montgomery County Board of Supervisors was presented a draft Memorandum of Understanding (MOU) at its October 12, 2004 meeting describing a new volunteer service program to assist the County in providing services to its animal welfare

October 25, 2004

Page 57 of 77

program; and

WHEREAS, The approval of the proposed MOU will allow the County to provide additional services to the citizens in regard to hours of operations and educational opportunities in the care and ownership of animals; and

WHEREAS, VA PAWS has offered to provide volunteers to work within the guidelines of the MOU and the Standard Operating Procedures which are jointly being developed; and

WHEREAS, The Board of Supervisors has deemed that entering into the MOU with VA PAWS will be beneficial to the County.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia that the Board does hereby approve the MOU and directs County staff to continue to work with VA PAWS to establish and develop a volunteer service program at the County's shelter.

BE IT FURTHER RESOLVED, That B. Clayton Goodman, III, County Administrator, is authorized to execute the Memorandum of Understanding on behalf of Montgomery County.

A copy of the said MOU as listed below is made part of this resolution.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
Mary W. Biggs	None
Doug Marrs	
Steve L. Spradlin	
Annette S. Perkins	
Gary D. Creed	
John A. Muffo	
James D. Politis	

**Memorandum of Understanding  
between  
Montgomery County and VA PAWS**

Montgomery County heretofore defined as "Owner" and Virginia Partnership for Animal Welfare and Support (VAPAWS) heretofore defined as "Volunteer Organization" agreement for the provision by the Volunteer Organization of personnel service to extend and improve hours of operations at the County Animal Shelter and increase adoptions using appropriate means. "Volunteer Organization" agrees to define its Shelter outreach project as "Friends of Animal Care and Control" (FACC) and such project name may be used interchangeably in this Agreement.

Whereas, this Agreement is made and entered into this 18th day of November 2004, by and between Montgomery County and VA PAWS.

Whereas, Montgomery County has been operating the existing Animal Shelter for many years, and has housed, cared for, disposed and offered for adoption dogs from the community, and now wishes to enter into this Agreement with the Volunteer Organization in order to provide extended Animal Shelter operating hours for adoption and receiving of dogs; evaluation of dogs for adoptability; and assistance to County in general animal welfare activities.

Whereas, the Volunteer Organization wishes to provide volunteer service hours to enable Montgomery County to extend and expand its present Animal Shelter operations in order to provide the public with more office hours during which dogs may be delivered and/or adopted in accordance with County policies; and provide necessary dog adoptability evaluation via approved temperament testing procedures; and

Whereas, both parties of this Agreement wish to jointly identify the means which can accomplish this goal.

Now, Therefore In Consideration of the mutual covenants herein contained and subject to the conditions set forth, the parties mutually covenant and agree as follows:

## **Article I**

### Definitions

These sections will be jointly developed. The proposed advisory joint committee is proposed.

### Advisory Joint Committee

To enforce the terms of the Agreement, the two parties agree to establish an Advisory Joint Committee comprised of the following membership:

1. County Administrator or designee
2. *County Engineer* or designee
3. *General Services Manager* or designee
4. Chief Animal Control Officer or designee
5. VAPAWS President or designee
6. VAPAWS Member / FACC Executive Planning Committee designee
7. VAPAWS Member / FACC Executive Planning Committee designee

The purpose of this Committee is to *hold meetings as needed* to facilitate communications between the two organizations and to address any questions regarding this Agreement and the operations of the Animal Shelter.

## **Article II**

### Section 2.1 Advisory Joint Committee Responsibilities

This will need to be expanded, but as a minimum, the advisory committee shall:

- Hold regular *monthly or* quarterly meetings as needed and establish means to hold emergency meetings as required.
- Participate in the new Animal Shelter financing, fundraising, and construction design.
- Consider hours of operation for the current and new Animal Shelter.
- Review county, state and any other reports pertaining to the Animal Shelter, before their release.
- Participate in development of the Animal Shelter budget.
- Participate in the establishment of Animal Shelter fees; including but not limited to dog license and impound fees.
- Review monthly financial reports.

- Review monthly shelter statistics; including, but not limited to intake, adoption, and euthanasia numbers.
- Provide monthly updates to the current Board of Supervisors.
- Review approve current or planned Animal Shelter Standard Operating Procedures (SOP) including development of a Disaster Preparedness Plan for the animals at the shelter or in need of assistance

### **Article III**

#### **Section 3.1 Volunteer Worker Requirements/County Requirements**

As minimum, this section would include the following:

- Volunteers will be prescreened by the volunteer organization, using a volunteer questionnaire approved by the Animal Control Officer including an approval process by the FACC.
- The County will screen volunteers recommended by the volunteer organization. A background investigation will be required.
- The County and volunteer organization will agree upon a current set of Standard Operating Procedures for the shelter and program.
- County will schedule mandatory training programs, which the Volunteers must participate to continue their participation in this proposed program. This should be defined in the Standard Operating Procedures. Volunteers will need to agree with confidentiality of records and business transactions to protect the general public.
- County will provide general safety equipment required for Animal Shelter operations, but the volunteers will be required to provide their own safety clothing. (ear plugs, gloves, aprons, etc)
- Volunteers shall only handle those animals that are deemed by the Animal Control Officer as eligible for adoption. Any animal in the Animal Shelter that is not currently eligible for adoption shall only be handled by the Animal Control Officer.
- The County shall provide liability insurance for any volunteer for any work done pursuant to this Memorandum of Understanding. Volunteers shall not be insured for any action outside the scope of this Memorandum of Understanding or for any acts deemed to be gross negligence. The volunteers are regarded as independent contractors under this Memorandum of Understanding and are not County employees. As independent contractors the Volunteers are not eligible for coverage under Montgomery County's Workers Compensation Insurance Program.
- Volunteers will indemnify the County from any suit arising from normal volunteer services.
- The Volunteer organization agrees to provide the County with sufficient volunteers to staff the expanded Animal Shelter adoption hours as approved by the Volunteer organization and County. For a trial period of 6 weeks, Volunteer organization will provide expanded hours for Saturday only 10:00am to 4:00pm. Volunteer organization *may* expand to Sunday and weekday hours as the program grows.
- The Volunteer Organization will provide at minimum 2 volunteers on Saturdays for trial period.
- Volunteers will not be asked to clean the facility except for incidental cleaning which may be required to show or adopt an animal.
- Trained Volunteers, working with Volunteer coordinator (or designee by Advisory Committee), will be allowed to evaluate and handle animals at the Animal Shelter.
- Trained Volunteers will be allowed to show animals to prospective families upon full temperament evaluation and approval by Chief ACO.

- Volunteer organization will be asked to assist the County in establishing appropriate spay and neuter program.
- Volunteer organization will be asked to assist the County in addressing feral cat issues until such time the County may be able to institute a feral cat program.
- County will provide access to Animal Shelter as agreed to by both parties listed in the Agreement. Such hours will be a minimum of 1 hour prior to and after expanded shelter hours.
- County will provide to the Volunteer Organization, a minimum of 2 access keys to the Shelter facilities and access point needed (gates). Volunteer organization will limit use of keys to FACC Executive Planning Committee or appropriate designee.
- County will agree to regular facility maintenance as required and consider additional facilities improvement proposed by Advisory Committee.
- Volunteer will not be required to provide maintenance, financial, or general service of County Animal Shelter.
- Volunteers who have questions or concerns are to voice those concerns to the Volunteer Coordinator not Animal Control Officer.

#### MONTGOMERY COUNTY

\_\_\_\_\_  
B. Clayton Goodman, III  
County Administrator

Date: \_\_\_\_\_

#### VAPAWS

\_\_\_\_\_  
Lila Borge Wills  
President

Date: \_\_\_\_\_

Seen and approved as to form and legal sufficiency:

\_\_\_\_\_  
Martin M. McMahon  
County Attorney

### **R-FY-05-73 POLICY ON TAX EXEMPTION REQUESTS ON REAL ESTATE AND PERSONAL PROPERTY TAXES FOR NON-PROFIT ORGANIZATIONS**

On a motion by Mary W. Biggs, seconded by Steve L. Spradlin and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of the County of Montgomery, Virginia hereby establishes procedures and criteria for the review and consideration by the Board of Supervisors of applications requesting exemption from local real and personal property taxes, as listed below:

## **BOARD OF SUPERVISORS POLICY REGARDING APPLICATIONS FOR TAX EXEMPTION BY DESIGNATION**

### **PURPOSE**

The Virginia Constitution provides that, after January 1, 2003, local governments may by designation, exempt the real and tangible personal property of nonprofit organizations from local property taxes if used exclusively for religious, charitable, patriotic, historical, benevolent, cultural or public park and playground purposes. The local governing body must adopt an ordinance to exempt the property. The purpose of this policy is to establish a procedure and criteria for the review and consideration by the Board of Supervisors of applications requesting exemption from local real and personal property taxes.

### **REQUEST FOR TAX EXEMPT STATUS**

Applicants meeting certain criteria may request the Board of Supervisors to provide tax-exempt status from real or personal property taxes or both by designation. All requests must be in writing and must contain information prescribed by this policy. The Board of Supervisors is not required to designate any organization as being exempt from taxation and every designation of an organization is conditioned upon compliance with the terms of this Policy and any ordinance granting the exemption. The decision to grant tax-exempt status is totally within the discretion of the Board of Supervisors. No exemption shall be provided to any organization that has any rule, regulation, policy or practice that unlawfully discriminates on the basis of religious conviction, race, color, sex or national origin. The organization must be exempt from federal income tax pursuant to IRC §501(c) and upon obtaining exemption, must annually submit by July 1 of each year certification of its continuing tax-exempt status. Loss of 501(c) status is grounds for revocation of the tax exempt status. The organization must own the real and personal property for which the exemption is being requested. Exemptions will be effective as of January 1<sup>st</sup> of the year following the Board's approval. To be effective as of January 1<sup>st</sup> of a given year, applications for exemption shall be filed not later than July 1<sup>st</sup> of the preceding year. The foregoing filing deadline shall not apply, but the remainder of these policies shall apply, to applications filed before the adoption of this Policy.

### **APPLICATION REQUIREMENTS**

Written requests for tax exempt status shall contain, at a minimum, the following information:

(1) The name and address of the organization requesting the tax-exempt status, including the tax-map number for any real property and the physical location of any tangible personal property for which the exemption is being requested. Names and addresses of officers, directors, managing members, trustees or partners as applicable shall be provided. A copy of the organizations Articles of Incorporation and bylaws shall also be provided. The name and telephone number of a contact person for the organization shall also be included. A complete description of the property and the current use of that property for which exemption from taxation is sought shall be provided.

2. Information addressing whether the organization is exempt from taxation pursuant to §501(c) of the Internal Revenue Code. A copy of the Internal Revenue Service's determination letter shall be provided.
3. Information addressing whether there are any current alcoholic beverage licenses (ABC license) for serving alcoholic beverages issued to the organization by the Alcoholic Beverage Control Board for use on the property for which tax exempt status is being requested.
4. A statement of the salaries or other compensation, if any, paid to all directors, officers, managing members, trustees or partners as applicable. Information addressing whether any director, officer, managing members, trustees or partners as applicable of the organization is paid compensation in excess of a reasonable allowance for salaries or other compensation for personal services actually rendered.
5. Information addressing whether any part of the net earnings of the organization has inured to the benefit of any individual.
6. Information addressing whether any portion of the service provided by the organization was generated by funds received from donations, contributions or local, state or federal grants. If so, how much? Donations shall include the providing of personal services or the contribution of in-kind or material services.
7. Information addressing whether the organization provides services for the common good of the public. If so, please provide information as to the services provided in Montgomery County. Please address whether the benefits derived by the community at large are equivalent to or exceed the County's loss in revenue from taxes and if so, how?
8. Information addressing whether a substantial part of the activities of this organization involve carrying on propaganda or otherwise attempting to influence legislation and whether the organization participates in or intervenes in any political campaign on behalf of any candidate for public office.
9. Information as to the assessed value (estimate if not current assessment) of the real or personal property for which tax exemption is requested as well as the property taxes assessed against such property.
10. Information addressing whether the property which is the subject of this request produces revenue. If so, how much? Information whether the real or personal property for which the exemption is sought relates to the purposes for which the organization was created and whether the use of such property directly promotes those purposes.
11. Provide the most recent financial statement of the organization including where applicable, IRS Forms 900, 990, 990EZ, 990T reflecting income and expenditures for the most current twelve (12) month reporting period. If investments such as stocks, bonds, and other investments are reflected on the financial statement please provide a list of all such investments including the name and type of investment, the date received and the value.

12. Any other criteria, facts and circumstances which the applicant or County feels the Board of Supervisors may deem appropriate and pertinent to the application.

### **PROCEDURE FOR TAX EXEMPTION**

The written request for tax exempt status shall be sent to the County Administrator. The County Administrator shall review the application for completeness and determine whether the information provided establishes that the Organization may be eligible for tax-exempt status. If the applicant's written request is determined to be incomplete or that the organization is not eligible for tax exempt status, the County Administrator shall notify the applicant accordingly. The County Administrator shall prepare a written report addressing the information provided and the revenue impact to the County and provide a copy of the report to the Board of Supervisors.

Once the written request has been determined by the County Administrator to be complete, the Administrator shall forward the request to the County Attorney for preparation of an ordinance for the Board of Supervisors' consideration. The ordinance shall state the specific use on which the exemption is based that continuance of the exemption shall be contingent on the continued use of the property in accordance with the purpose for which the organization is designated and shall contain such other conditions or restrictions as the Board may deem appropriate. The ordinance shall not be considered until after the Board of Supervisors have held a public hearing on the proposed exemption at which citizens shall have an opportunity to be heard. The Board of Supervisors shall publish notice of the hearing at least once in a newspaper of general circulation in Montgomery County. The notice shall include the assessed value of the real and personal property for which an exemption is requested as well as the property taxes assessed against such property. The public hearing shall not be held until at least five (5) days after the notice is published in the newspaper. The organization requesting the property tax exemption shall be responsible for paying the County for the cost of publication of the notice. The Board of Supervisors shall consider the information the organization is required to submit pursuant to this Policy along with any other criteria, facts and circumstances as may be deemed pertinent in determining whether to grant tax exempt status.

### **TRIENNIAL REVIEW; REVOCATION OF EXEMPTION**

Any organization granted exemption from local taxation by the Board of Supervisors shall be required to file an application with the County Administrator every three (3) years as a requirement for retention of the exemption granted. The application shall be filed with the County Administrator not later than July 1<sup>st</sup> of the year preceding the tax year the exemption is sought to be continued. The applications shall contain the following information:

- (1) The ownership of the property;
- (2) The use of the property;
- (3) Whether the organization has any rule, regulation, policy or practice that discriminates on the basis of religious conviction, race, color, sex or national origin;
- (4) Whether the organization is current on all its obligations to the County;



- (5) Whether the organization is in compliance with all County ordinances and regulations, including, but not limited to building, subdivision and zoning ordinances;
- (6) Whether the organization has attempted to influence legislation, has participated in, or intervened in, any political campaign on behalf of any candidate for public office;
- (7) The names and addresses of officers, directors, managing members, trustees or partners, as applicable;
- (8) A current statement of the salaries or other compensation, if any, paid to officers, directors, managing members, trustees or partners, as applicable;
- (9) A current certificate of Good Standing from the State Corporation Commission;
- (10) The most recent financial statement, including, where applicable, IRS Forms 900; 990;990EZ;990T reflecting income and expenditures for the most current twelve (12) month reporting period.

The County Administrator shall conduct an initial evaluation of each application and any supporting materials submitted and submit a written report summarizing the Administrator's evaluation to the Board of Supervisors as to whether the Board should consider revoking the exemption.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
Doug Marrs	None
Steve L. Spradlin	
Annette S. Perkins	
Gary D. Creed	
John A. Muffo	
Mary W. Biggs	
James D. Politis	

**R-FY-05-74**  
**A RESOLUTION CREATING**  
**THE MONTGOMERY COUNTY, VIRGINIA**  
**FIRE AND RESCUE COMMISSION AND DISSOLVING**  
**THE FIRE AND RESCUE TASK FORCE**

On a motion by Steve L. Spradlin, seconded by Doug Marrs and carried unanimously,

WHEREAS, The County of Montgomery, Virginia has completed a comprehensive assessment of fire and rescue services for Montgomery County; and

WHEREAS, As part of the comprehensive review of the County's fire and rescue services, it was recommended that the Board of Supervisors formally replace the "Fire and Rescue Task Force" with the Montgomery County Fire and Rescue Commission; and

WHEREAS, The Board of Supervisors desires to create the Montgomery County Fire and Rescue Commission as an advisory board commissioned to work with the County Emergency Services Office and all volunteer fire departments and rescue squads providing emergency services in Montgomery County; and

WHEREAS, It is the intention of the Board of Supervisors that the Montgomery County Fire and Rescue Commission replace the current Fire and Rescue Task Force.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of the County of Montgomery, Virginia hereby establishes the Montgomery County Fire and Rescue Commission to be composed of thirteen voting members to be appointed by the Board of Supervisors as follows:

- The Fire Chief from the Blacksburg Volunteer Fire Department or their designee
- The Chief from the Blacksburg Volunteer Rescue Squad or their designee
- The Fire Chief from the Christiansburg Fire Department or their designee
- The Captain from the Christiansburg Rescue Squad or their designee
- The Fire Chief from the Elliston Fire Department or their designee
- The Fire Chief from the Long-Shop McCoy Fire Department or their designee
- The Captain from the Long-Shop McCoy Rescue Squad or their designee
- The Fire Chief from the Riner Fire Department or their designee
- The Captain from the Shawsville Rescue Squad or their designee
- 1 Representative from the Montgomery County Board of Supervisors or their designee
- 1 Representative from the Town of Blacksburg or their designee
- 1 Representative from the Town of Christiansburg or their designee
- The County Administrator from the County of Montgomery or their designee

The Emergency Services Coordinator for the County of Montgomery shall serve on the Commission as a non-voting member.

BE IT FURTHER RESOLVED, That the appointed term for each voting member shall be three years or until such time that the elected official or appointed official leaves office or the member of the volunteer Fire Department or Rescue Squad is no longer an active member of their respective Fire Department or Rescue Squad, whichever occurs first. A vacancy caused by a resignation or appointed official leaving office or by a member of a volunteer Fire Department or Rescue Squad no longer being an active member shall be filled by the Board of Supervisors in the same manner as the original appointment except that the term of office shall be restricted to the unexpired term of office.

BE IT FURTHER RESOLVED, That the purpose of the Montgomery County Fire and Rescue Commission is to serve as an advisory board to the Montgomery County Board of Supervisors and the Montgomery County Emergency Services Office concerning fire and rescue services in Montgomery County or for such purposes as identified by the Board of Supervisors.

BE IT FURTHER RESOLVED, That the original by-laws of the Montgomery County Fire and Rescue Commission accompanying this Resolution shall be approved by the Board of Supervisors. Any amendments to the by-laws must be approved by the Board of Supervisors prior to going into effect.

BE IT FURTHER RESOLVED, That the Fire and Rescue Task Force is hereby dissolved.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
Steve L. Spradlin	None
Annette S. Perkins	
Gary D. Creed	
John A. Muffo	
Mary W. Biggs	
Doug Marrs	
James D. Politis	

**R-FY-05-75**  
**FIRE AND RESCUE COMMISSION**  
**BY-LAWS – TABLED**

On a motion by Steve L. Spradlin, seconded by Gary D. Creed and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County the Fire and Rescue Commission by-laws dated October 25, 2004 is hereby TABLED pending review by the commission members.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
Annette S. Perkins	None
Gary D. Creed	
John A. Muffo	
Mary W. Biggs	
Doug Marrs	
Steve L. Spradlin	
James D. Politis	

**R-FY-05-76**  
**PROPOSED POLICY GOVERNING**  
**AUDIO-VIDEO PROJECTS**  
**PRODUCED BY MONTGOMERY COUNTY**

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby adopts the following policy to govern audio-video projects produced by Montgomery County:

1. Audio and video projects and products that have a governmental purpose will be produced by the County of Montgomery, for the following agencies and individuals:
  - a. County departments and other government agencies or events, as approved on a case by case basis by the County Administrator or Board of Supervisors.
  - b. Elected officials, e.g., Board of Supervisors, constitutional officers.
  - c. Advisory boards whose members are recommended or appointed by the Board of Supervisors.
2. The County Administrator and Board of Supervisors has sole discretion to determine whether projects will be accepted, and on what terms and schedules, based upon:
  - a. other work load
  - b. other production resources available to the requesting party
3. All audio and video products produced by the County of Montgomery are copyrighted material of the County of Montgomery, Virginia, and may not be used without prior consent of the County of Montgomery, Virginia.
4. The requesting party will be responsible for providing all consumable materials needed for the project, including, but not limited to, tape stock, cases, and labels.
5. The County of Montgomery will, upon request and according to the terms of this policy, make duplicate copies of programs, projects, or other footage produced by the County of Montgomery, up to 120 minutes total for any given item. For any requests for video duplicating that total more than 120 minutes, the requester will be responsible for finding another provider of this service.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
Gary D. Creed	None
John A. Muffo	
Mary W. Biggs	
Doug Marrs	
Steve L. Spradlin	
Annette S. Perkins	
James D. Politis	

**R-FY-05-77**  
**FY 04-05 CHANGES TO PERSONNEL**  
**POLICIES AND PROCEDURES**

On a motion by Steve L. Spradlin, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby approves and authorizes changes to the County Personnel Policies and Procedures dated October 2004.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
John A. Muffo	None
Mary W. Biggs	
Doug Marrs	
Steve L. Spradlin	
Annette S. Perkins	
Gary D. Creed	
James D. Politis	

**R-FY-05-78**  
**A RESOLUTION AUTHORIZING**  
**THE PURCHASE OF ONE RESCUE PUMPER FIRE TRUCK**  
**FOR THE CHRISTIANSBURG VOLUNTEER FIRE DEPARTMENT**

On a motion by Gary D. Creed, seconded by Annette S. Perkins and carried unanimously,

WHEREAS, The Montgomery County Board of Supervisors has appropriated funds in the amount of \$634,912 for replacement of fire trucks and equipment for the Christiansburg Volunteer Fire Department (CVFD); and

WHEREAS, The County, with assistance from the CVFD, issued an invitation to bid and received offers on June 18, 2004; and

WHEREAS, CVFD has recommended to the County that the Pierce bid be declared low responsive bid in the amount of \$546,028.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia that the Board does hereby award the CVFD rescue pumper bid to Pierce in the amount of \$546,028.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
Mary W. Biggs	None
Doug Marrs	
Steve L. Spradlin	
Annette S. Perkins	
Gary D. Creed	
John A. Muffo	
James D. Politis	

**R-FY-05-79**  
**EMPLOYEE HOLIDAY SCHEDULE**

On a motion by Mary W. Biggs, seconded by John A. Muffo and carried,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby declares the Thanksgiving Holiday to begin at 1:00 p.m on Wednesday, November 24, 2004 and to include the regularly scheduled days of November 25 and November 26, 2004.

BE IT FURTHER RESOLVED, The Christmas Holiday will begin at 1:00 p.m. on Thursday, December 23, 2004 and include the regularly scheduled day of Friday, December 24, 2004.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
Doug Marrs	James D. Politis
Steve L. Spradlin	
Annette S. Perkins	
Gary D. Creed	
John A. Muffo	
Mary W. Biggs	

**INTO WORK SESSION**

On a motion by Mary W. Biggs, seconded by John A. Muffo and carried unanimously,

BE IT RESOLVED, The Board of Supervisors hereby enters into Work Session for the purpose of discussing the following:

1. Historic Tax Districts

## 2. FY 05-06 Budget Process

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
Steve L. Spradlin	None
Gary D. Creed	
John A. Muffo	
Mary W. Biggs	
Doug Marrs	
Annette S. Perkins	
James D. Politis	

### **Historic Tax Districts**

Dan McKinney, Town of Blacksburg Planner, made a presentation on a proposed historic real estate tax incentive program. Such a program is in place in the Town of Blacksburg and Mr. McKinney urged the Board of Supervisors to consider implementing a program in Montgomery County.

Mike Colavecchio, County Assessor, addressed the Board on how such a program would affect the County and if other areas of the County would receive an abatement (tax incentive).

### **Fiscal Year 2005-2006 Budget Process**

The Assistant County Administrator presented information related to the preparations of the FY 2005-2006 County budget. An overview of state and local economic and revenue projections were presented. The Assistant County Administrator also provided an overview of cost projections for debt service, health insurance, Comprehensive Services Act mandates, conservation easements, road maintenance, compensation and classification plan, capital budget, and projected shortfalls. The budget format was also reviewed and the Board was asked to provide any changes or budget priorities.

### **OUT OF WORK SESSION**

On a motion by Mary W. Biggs, seconded by Steve L. Spradlin and carried unanimously,

BE IT RESOLVED, The Board of Supervisors ends their Work Session to return to Regular Session.

The vote on the foregoing motion was as follows:

AYE

Annette S. Perkins

Gary D. Creed

John A. Muffo

Mary W. Biggs

Doug Marrs

Steve L. Spradlin

James D. Politis

NAY

None

## **COUNTY ADMINISTRATOR'S REPORT**

### **Montgomery County Inclement Weather Policy**

The County Administrator provided additional information about the County's Inclement Weather Policy. At the October 12, 2004 Board meeting, several Board Members had questions concerning the Inclement Weather Policy. The County Administrator reported that he still does not recommend changes to the policy. Only in extreme weather emergencies will the County consider closing.

Supervisor Spradlin expressed his concern that if it is the County's policy not to close County offices due to inclement weather, then the Board of Supervisors need to consider not canceling Board meetings. He believes the Board of Supervisors needs to set an example.

### **Virginia Association of Counties (VACo) Annual Conference – Homestead**

The County Administrator reminded Board members the VACo Annual Conference is November 7-9, 2004. Therefore, the first Board meeting will be Wednesday, November 10, 2004.

### **Refinance IDA Bonds**

The County Administrator explained that Davenport, the County's Financial Advisors, reported that a total of \$200,000 in savings could occur if the \$9.7 million in IDA Bonds were refinanced. This is a preliminary figure. The County Administrator requested Board members to advise on how to proceed with this matter. It was the consensus of the Board to move forward and requested an update be provided at the November 10, 2004 meeting.

## **BOARD MEMBERS' REPORTS**

**Supervisor Muffo Planning Commission** At the last Planning Commission meeting discussions included dedicating the 2025 Comprehensive Plan in remembrance of Kitty Breenan.

**Supervisor Creed Riffe Street** Supervisor Creed provided the Board with an update on the status of Riffe Street. He was informed by VDOT that Riffe Street would be primed and doubled sealed in November and will be paved in the Spring of 2005.



Lavender Road (SR622) –Low Water Bridge VDOT has reported that the low water bridge on Lavender Road will be replaced with larger pipe when funds become available in their maintenance budget and all necessary permits are issued. Supervisor Creed expressed his concerns as to why this issue is not a high priority for VDOT. Replacement and repair of this road was first requested in October 2003.

Eastern Montgomery County Supervisor Creed reported that at the October 12, 2004 Board meeting, Board members were provided with service needs for Shawsville and Elliston. With the renovation of the old Meadowbrook Nursing Home for a library he believes the remainder of the building should be used for a community center. A community center could house a food pantry, possible satellite offices for tax collections, sale of dog tags, sheriff office, and voter registration to name a few. Supervisor Creed asked the Board to consider appropriating an additional \$200,000 - \$250,000 over the next couple years for the renovation of the remaining portion of the building for a community center, contingent upon a matching amount from the community. Supervisor Creed stated a community meeting is scheduled for November 6, 2004 and he would like to inform the community of the Board's decision at that time.

Several Board members discussed this request and expressed concern. It was discussed that the cost of the renovation will exceed \$500,000 and who will provide the upkeep and maintenance to the building. It was suggested that this project be requested in the County's Capital Improvement Program for consideration.

Supervisor Biggs Specialty License Plates Supervisor Biggs asked Board members if they are interested in pursuing the issue of specialty license plates. She asked staff to conduct a study on which localities issue specialty license plates.

Supervisor Marrs Chrisman Mill Road – Speed Study Supervisor Marrs submitted a petition he received for a speed study to be conducted on Chrisman Mill Road in order for the speed limit to be lowered.

Supervisor Perkins The last EDC meeting included a trip to the Va Tech to observe their super computer.

School Board Meeting – Capital Projects were discussed and prioritized as follows:

1. Elliston/Lafayette Elementary School
2. Prices Fork Elementary School
3. HVAC – Auburn High School
- 4.

Six other facilities issues were discussed and determined critical.

Supervisor Spradlin commented on the issuance of specialty plates in Montgomery County. He believes this is a good idea and believes it should be pursued.

Speed Limit Posting Supervisor Spradlin reported that VDOT does not post speed limit on non-surface, gravel roads. He requested support from Board members to request the local legislators to request the General Assembly for an exemption. There are a number of counties that have exemption. By consensus, a resolution will be added to the November 10, 2004 agenda for consideration.

**Supervisor Politis** expressed concerns with safety issue on several areas of Rt. 8. He stated another accident occurred at the Smith Creek Road and Rt. 8 intersection. He requested Supervisor Creed to discuss safety issues at the next Transportation Safety Commission meeting for the following intersections to Rt. 8, 1) Smith Creek Rd, 2) Five Points Rd, and 3) Fairview Church Road. He believes some type of protective measures need to be in place.

### **INTO CLOSED MEETING**

On a motion by Annette S. Perkins, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors hereby enters into Closed Meeting for the purpose of discussing the following:

- Section 2.2-3711
- (1) Discussion, Consideration or Interviews of Prospective Candidates for Employment; Assignment, Appointment, Promotion, Performance, Demotion, Salaries, Disciplining or Resignation of Specific Officers, Appointees or Employees of Any Public Body
    1. Industrial Development Authority
    2. Planning Commission
  - (3) Discussion or Consideration of the Acquisition of Real Property for Public Purpose, or of the Disposition of Publicly Held Real Property, Where Discussion in an Open Meeting Would Adversely Affect the Bargaining Position or Negotiation Strategy of the Public Body
    1. Falling Branch Industrial Park
  - (5) Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business= or industry=s interest in locating or expanding its facilities in the community.
    1. Expansion of an Existing Business

- (7) Consultation with Legal Counsel and Briefings from Staff Members or Consultants Pertaining to Actual or Probable Litigation, Where Such Consultation or Briefing in Open Meeting Would Adversely Affect the Negotiating or Litigating Posture of the Public Body; and Consultation with Legal Counsel Employed or Retained by a Public Body Regarding Specific Legal Matters Requiring Provision of Legal Advice by Such Counsel

1. Blacksburg/Christiansburg Water Authority

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
Mary W. Biggs	None
Doug Marrs	
Steve L. Spradlin	
Annette S. Perkins	
Gary D. Creed	
John A. Muffo	
James D. Politis	

**OUT OF CLOSED MEETING**

On a motion by Gary D. Creed, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors ends their Closed Meeting to return to Regular Session.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
Mary W. Biggs	None
Doug Marrs	
Steve L. Spradlin	
Annette S. Perkins	
Gary D. Creed	
John A. Muffo	
James D. Politis	

## **CERTIFICATION OF CLOSED MEETING**

On a motion by Annette S. Perkins, seconded by John A. Muffo and carried unanimously,

WHEREAS, The Board of Supervisors of Montgomery County has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such Closed Meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion conveying the closed meeting were heard, discussed or considered by the Board.

### **VOTE**

#### **AYES**

Mary W. Biggs  
Doug Marrs  
Steve L. Spradlin  
Annette S. Perkins  
Gary D. Creed  
John A. Muffo  
James D. Politis

#### **NAYS**

None

#### **ABSENT DURING VOTE**

None

#### **ABSENT DURING MEETING**

None

## APPOINTMENTS

### **R-FY-05-80 APPOINTMENT INDUSTRIAL DEVELOPMENT AUTHORITY**

On a motion by Annette S. Perkins, seconded by Gary D. Creed and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby appoints **Allan M. Bookout** to the Industrial Development Authority (IDA) effective November 1, 2004 and expiring February 24, 2007.

Said appointments fills the unexpired term of Litz VanDyke, resigned.

The vote on the foregoing motion was as follows:

AYE

NAY

Annette S. Perkins  
Gary D. Creed  
John A. Muffo  
Steve L. Spradlin  
Doug Marrs  
Mary W. Biggs  
James D. Politis

## ADJOURNMENT

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously, the Board adjourned to Wednesday, November 10, 2004 at 7:15 p.m.

The vote on the foregoing motion was as follows:

AYE

NAY

Annette S. Perkins  
Gary D. Creed  
John A. Muffo  
Steve L. Spradlin  
Doug Marrs  
Mary W. Biggs  
James D. Politis

The meeting adjourned at 11:10 p.m.

APPROVED: \_\_\_\_\_ ATTEST: \_\_\_\_\_  
James D. Politis B. Clayton Goodman, III  
Chair County Administrator